

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :
13

14 - HIGHLY CONFIDENTIAL -
15

16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
17
18 - - -
19

20 July 19, 2018
21 - - -
22

23 Videotaped deposition of
24 MICHAEL ORIENTE, taken pursuant to
notice, was held at the law offices of
Weitz & Luxenberg, 700 Broadway, New York
New York, beginning at 9:01 a.m., on the
above date, before Michelle L. Gray, a
Registered Professional Reporter,
Certified Shorthand Reporter, Certified
Realtime Reporter, and Notary Public.
- - -
GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 LEVIN PAPANTONIO THOMAS</p> <p>4 MITCHELL RAFFERTY PROCTOR, P.A.</p> <p>5 BY: MIKE PAPANTONIO, ESQUIRE</p> <p>6 ARCHIE C. LAMB, JR., ESQUIRE</p> <p>7 316 South Baylen Street</p> <p>8 Pensacola, Florida 32502</p> <p>9 (850) 435-7000</p> <p>10 mpapantonio@levinlaw.com</p> <p>11 alamb@levinlaw.com</p> <p>12 - and -</p> <p>13</p> <p>14 WEISMAN KENNEDY & BERRIS CO LPA</p> <p>15 BY: ERIC KENNEDY, ESQUIRE</p> <p>16 BRIAN ASQUITH, ESQUIRE</p> <p>17 1600 Midland Building</p> <p>18 101 W. Prospect Avenue</p> <p>19 Cleveland, Ohio 44115</p> <p>20 (216) 781-1111</p> <p>21 ekennedy@weismanlaw.com</p> <p>22 basquith@weismanlaw.com</p> <p>23 - and -</p> <p>24</p> <p>25 NAPOLI SHKOLNIK, PLLC</p> <p>26 BY: SHAYNA E. SACKS, ESQUIRE</p> <p>27 360 Lexington Avenue, 11th Floor</p> <p>28 New York, New York 10017</p> <p>29 (212) 397-1000</p> <p>30 Ssacks@napolilaw.com</p> <p>31 - and -</p> <p>32</p> <p>33 GRAY & WHITE LAW</p> <p>34 BY: MARK K. GRAY, ESQUIRE</p> <p>35 713 East Market Street</p> <p>36 Louisville, Kentucky 40202</p> <p>37 (502) 805-1800</p> <p>38 Mgray@grayandwhitelaw.com</p> <p>39 Representing the Plaintiffs</p>	<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 JONES DAY</p> <p>4 BY: LAURA JANE DURFEE, ESQUIRE</p> <p>5 2727 North Harwood Street</p> <p>6 Dallas, Texas 75201</p> <p>7 (214) 220-3939</p> <p>8 Ldurfee@jonesday.com</p> <p>9 Representing the Defendant, Walmart</p> <p>10</p> <p>11 MORGAN LEWIS & BOCKIUS, LLP</p> <p>12 BY: CAROLYN A. SILANE, ESQUIRE</p> <p>13 101 Park Avenue</p> <p>14 New York, New York 10178</p> <p>15 (212) 309-6734</p> <p>16 Csilane@morganlewis.com</p> <p>17 Representing the Defendant, Rite Aid</p> <p>18 of Maryland</p> <p>19</p> <p>20 PELINI CAMPBELL & WILLIAMS, LLC</p> <p>21 BY: ERIC J. WILLIAMS, ESQ.</p> <p>22 8040 Cleveland Avenue NW</p> <p>23 Suite 400</p> <p>24 North Canton, Ohio 44720</p> <p>25 (330) 305-6400</p> <p>26 ejwilliams@pelini-law.com</p> <p>27 Representing the Defendant,</p> <p>28 Prescription Supply, Inc.</p> <p>29</p> <p>30 DECHERT, LLP</p> <p>31 BY: DEBRA D. O'GORMAN, ESQUIRE</p> <p>32 1095 Avenue of the Americas</p> <p>33 New York, New York 10036</p> <p>34 (212) 698-3500</p> <p>35 Debra.ogorman@dechert.com</p> <p>36 Representing the Defendant, Purdue</p> <p>37 Pharmaceuticals</p>
Page 3	Page 5
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<p>1 TELEPHONIC APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 - and -</p> <p>4 GREENE KETCHUM, LLP</p> <p>5 PAUL T. FARRELL, JR., ESQUIRE</p> <p>6 419 11th Street</p> <p>7 Huntington, West Virginia 25701</p> <p>8 (304) 521-4778</p> <p>9 Paul@greeneketchum.com</p> <p>10 - and -</p> <p>11 GARSON JOHNSON, LLC</p> <p>12 BY: JAMES A. DEROCHE, ESQUIRE</p> <p>13 101 West Prospect Avenue, Suite 1600</p> <p>14 Midland Building</p> <p>15 Cleveland, Ohio 44115</p> <p>16 (216) 696-7009</p> <p>17 - and -</p> <p>18 LAW OFFICE OF LUKE D. MAHONEY</p> <p>19 BY: LUKE DANIEL MAHONEY, ESQUIRE</p> <p>20 1200 Ontario St</p> <p>21 Cleveland, Ohio 44113</p> <p>22 (216) 443-7800</p> <p>23 Representing the Plaintiffs</p> <p>24</p>	<p>1 APPEARANCES: (Cont'd.)</p> <p>2</p> <p>3 JACKSON KELLY, PLLC</p> <p>4 BY: DOUGLAS J. CROUSE, ESQUIRE</p> <p>5 500 Lee Street East, Suite 1600</p> <p>6 Charleston, West Virginia 25301</p> <p>7 (304) 340-1347</p> <p>8 Dcrouse@jacksonkelly.com</p> <p>9 Representing the Defendant,</p> <p>10 Miami-Luken</p> <p>11</p> <p>12 ALSO PRESENT:</p> <p>13</p> <p>14</p> <p>15 VIDEOTAPE TECHNICIAN:</p> <p>16</p> <p>17 Henry Marte</p> <p>18</p> <p>19 LITIGATION TECHNICIAN:</p> <p>20</p> <p>21 Evan Wolfe</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24</p> <p>Carol Moore</p> <p>Sarah Merced</p> <p>Sara Papantonio</p> <p>Olivia Bergert</p> <p>(Levin Papantonio)</p> <p>Donna Rozman</p> <p>(Weisman Kennedy)</p> <p>- - -</p>

I N D E X

Testimony of: MICHAEL ORIENTE

By Mr. Papantonio 25, 583
By Mr. Kennedy 321, 603
By Ms. Henn 575
By Mr. O'Croinin 598

E X H I B I T S

NO.	DESCRIPTION	PAGE
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MCK-Orient-518	Memo for ASA Hutchinson Subject, Review Of the DEA Report No. I-2002-010 P1.1086	338

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MCK-Orient-519	Follow-Up Review Of the DEA Efforts To Control the Diversion of Controlled Pharmaceuticals July 2006 P1.1088	343
MCK-Orient-525	Threshold Change Form 12/30/09 P1.1228 MCKMDL00368716-22	436
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MCK-Orient-062	McKesson Operations Manual P1.345 MCKMDL000002509-539	314
MCK-Orient-020	E-mail Thread 8/18/11 Subject, McKesson Marketing Opportunities Actavis Oxymorphone ER P1.113 ACTAVIS0623837-40	306
MCK-Orient-322	DOJ, Biopharmaceutical Company, Cephalon to Pay 425 Million P1.1381	292

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MCK-Orient-060	Death Map P1.324	584
MCK-Orient-383	In the Matter Of McKesson Corporation P1.1428 MCKMDL00409050-112	30
MCK-Orient-503	US DOJ CVS Pharmacy Inc. Pays 5 Million to Settle P1.296	569
MCK-Orient-504	US DOJ US Reaches 8 Million Settlement P1.297	568
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6	MCK-Oriente-507 US DOJ 566	
7	Drug Diversion	
8	Claims Against	
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10	P1.301	
11	MCK-Oriente-511 US DOJ 560	
12	CVS to Pay	
13	11 Million	
14	P1.305	
15	MCK-Oriente-534 5 Things 554	
16	News Letter	
17	DEA Moyes Against	
18	Two Florida	
19	Pharmacies	
20	P1.5004.1	
21	MCK-Oriente-537 CVS DEA 570	
22	Settlements	
23	Total Paid	
24	130.6 Million	
	P1.5007	
	MCK-Oriente-544 Giant Eagle 410	
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	Form	
	P1.5014.1	
	MCKMDL00364141-44	
	MCK-Oriente-545 PowerPoint 327	
	Lifestyle Drugs &	
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5	NO. DESCRIPTION PAGE	
6	MCK-Oriente-546 Threshold Change 401	
7	Form	
8	11/28/08	
9	P1.5016	
10	MCKMDL00000524	
11	MCK-Oriente-539 Establishing 509	
12	Opioid Threshold	
13	P1.5009	
14	MCK-Oriente-541 CSMP 378	
15	P1.5011.1	
16	MCKMDL00144473-86	
17	MCK-Oriente-542 ISMC CSMP 389	
18	Outbound Calls	
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21	MCKMDL00317004-10	
22	MCK-Oriente-543 RNA Threshold 467	
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24	Form	
	P1.5013.1	
	MCKMDL00000497-512	
	MCK-Oriente-547 E-mail Thread 445	
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	Do Me a Favor	
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5	NO. DESCRIPTION PAGE	
6	MCK-Oriente-548 Threshold Change 459	
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11	MCK-Oriente-559 CSMP 510	
12	Observation	
13	Level 1	
14	Documentation Forms	
15	P1.5030.1	
16	MCK-Oriente-562 Memo, 4/1/10 518	
17	Subject, FY11	
18	Compensation Plan	
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20	MCKMDL00346787	
21	MCK-Oriente-563 Settlement & 506	
22	Release Agreement	
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24	MCKMDL00409289-99	
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	Subject, Good Day	
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5	NO. DESCRIPTION PAGE	
6	MCK-Oriente-564 E-mail Thread 490	
7	5/31/11	
8	Subject, High	
9	Percentage	
10	To Threshold	
11	Customers	
12	P1.5037	
13	MCKMDL00409322	
14	MCK-Oriente-566 E-mail, 530	
15	2/28/12	
16	Subject, CSMP	
17	Omit v Report	
18	P1.5039	
19	MCKMDL00409326	
20	MCK-Oriente-569 E-mail Thread 532	
21	8/19/10	
22	Subject, Sales	
23	Ride Along	
24	P1.5042.1	
	MCKMDL00409351-53	
	MCK-Oriente-570 US DOJ Letter 498	
	8/13/14	
	P1.5043.1	
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	MCK-Oriente-571 CSMP 526	
	Observation	
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5	NO. DESCRIPTION PAGE	
6	MCK-Oriente-572 Handwritten 365	
7	Demonstrative	
8	When Made Increase	
9	In Threshold	
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11	MCK-Oriente-573 Handwritten 341	
12	Demonstrative	
13	McKesson Took Our	
14	Responsibilities	
15	Very Seriously	
16		
17	MCK-Oriente-574 Handwritten 548	
18	Demonstrative	
19	CVS Performs	
20	Its Own	
21	Due Diligence	
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23	MCK-Oriente-V-1 Video 1 266	
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1	- - -
2	D E P O S I T I O N S U P P O R T I N D E X
3	- - -
4	
5	Direction to Witness Not to Answer
6	PAGE LINE
7	None.
8	
9	Request for Production of Documents
10	PAGE LINE
11	None.
12	
13	Stipulations
14	PAGE LINE
15	None.
16	
17	Questions Marked
18	PAGE LINE
19	None.
20	
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THE VIDEOGRAPHER: We are now on the record. My name is Henry Marte. I am a videographer for Golkow Litigation Services. Today's date is July 19, 2018. And the time is 9:01 a.m. This videotaped deposition is being held at 700 Broadway, New York, New York in the matter of In Re: National Prescription Opiate Litigation. The deponent today is Mr. Michael Oriente. All appearances please introduce themselves for the record. MR. PAPANTONIO: Mike Papantonio for the plaintiff. You know what, let's just get everybody in the room so there's no -- MS. MOORE: Okay. Carol Moore for the plaintiff. MS. MERCED: Sarah Merced

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for the plaintiff. MR. WOLFE: Evan Wolfe for plaintiff. MR. KENNEDY: Eric Kennedy, plaintiffs. MS. ROZMAN: Donna Rozman for plaintiff. MR. ASQUITH: Brian Asquith for plaintiff. MR. GRAY: Mark Gray, plaintiffs. MR. LAMB: Archie Lamb for the plaintiff. MR. O'CROININ: Conor O'Croinin for defendant, CVS. MR. HLAWATSCH: Neil Hlawtsch, defendant Amerisource Bergen Corporation -- Amerisource Bergen Drug Corporation and Amerisource Bergen Corporation. MR. WILLIAMS: Eric Williams for defendant Prescription Supply, Inc. MR. ROSENBERG: James

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1 Rosenberg, HBC Services Company.
2 MS. DURFEE: Laura Jane
3 Durfee, Walmart.
4 MS. KVESELIS: Emily
5 Kveselis, McKesson.
6 MS. HENN: Emily Henn on
7 behalf of McKesson and the
8 witness.
9 MR. ORIENTE: Michael
10 Oriente, McKesson.
11 MR. PAPANTONIO: We get
12 everybody?
13 Go ahead.
14 MS. VICARI: Angela Vicari
15 of Arnold and Porter, here for
16 Endo Health Solutions; Endo
17 Pharmaceuticals, Inc.; Barr
18 Pharmaceutical, Inc.; and Barr
19 Pharmaceutical Company, Inc.
20 MR. SALTZ: Adam Saltz for
21 the plaintiff.
22 MR. GOLDSTEIN: Josh
23 Goldstein, Ropes & Gray for
24 Mallinckrodt.

Page 23

1 MR. PAPANTONIO: We have
2 people on the telephone. If
3 you're on the phone, would you
4 identify yourself, please?
5 MS. SACKS: Shayna Sacks --
6 MR. PAPANTONIO: Oh, I'm
7 sorry. Hang on.
8 MS. SACKS: -- for the
9 plaintiff. Sorry.
10 MR. PAPANTONIO: Shayna?
11 Okay. My apologies.
12 MS. SILANE: Caroline Silane
13 for defendant, Rite Aid of
14 Maryland, Inc.
15 MR. MONAHAN: Matthew
16 Monahan on behalf of defendant
17 Cardinal Health, Inc.
18 MS. PAPANTONIO: Sara
19 Papantonio, plaintiff.
20 MS. BERGERT: Olivia
21 Bergert, plaintiff.
22 MR. PAPANTONIO: We've got
23 people coming in.
24 MS. O'GORMAN: I represent

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1 Purdue.
2 MR. PAPANTONIO: Purdue.
3 And what is your name?
4 MS. O'GORMAN: Debra
5 O'Gorman.
6 MR. PAPANTONIO: Debra. All
7 right. So we got everybody in
8 here right now.
9 Okay. On the telephone, who
10 do we have on the phone?
11 Nobody? Okay.
12 MR. CROUSE: Doug Crouse for
13 Miami-Luken.
14 MR. PAPANTONIO: Okay. Who
15 else?
16 MR. LAZAR: Good morning.
17 This is Zach Lazar from Morgan
18 Lewis, on behalf of the Teva
19 defendants.
20 MR. PAPANTONIO: Okay.
21 Anybody else?
22 MS. COVERSTONE: Kaitlyn
23 Coverstone from Kirkland & Ellis,
24 on behalf of Allergan.

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1 MR. PAPANTONIO: All right.
2 Anybody else?
3 MR. FARRELL: Paul Farrell
4 on behalf of plaintiffs.
5 MR. PAPANTONIO: All right.
6 Anybody else?
7 All right. With that, it
8 sounds we are about ready. Just
9 swear the witness and we'll get
10 started.
11 - - -
12 ... MICHAEL ORIENTE, having
13 been first duly sworn, was
14 examined and testified as follows:
15 - - -
16 EXAMINATION
17 - - -
18 BY MR. PAPANTONIO:
19 Q. Sir, state your name,
20 please?
21 A. My name is Michael Oriente.
22 Q. Mr. Oriente, you were one of
23 the directors of regulatory affairs for
24 McKesson; is that correct?

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1 A. Yes.
2 Q. How many years did you do
3 that?
4 A. I have been doing it since
5 late 2007 and continue to still do it
6 today.
7 Q. And with that, sir, you were
8 expected to understand all of the
9 regulatory -- all of the regulatory
10 requirements that McKesson was supposed
11 to follow in the sale of opioids; is that
12 correct?
13 A. I would monitor the
14 purchases for the sales of controlled
15 substances to our customers.
16 Q. Let me ask the question
17 again. You were expected to understand
18 all of the regulatory requirements that
19 McKesson was supposed to follow as it
20 sold narcotic drugs, opioids?
21 MS. HENN: Objection to
22 form.
23 THE WITNESS: Yes.
24 BY MR. PAPANTONIO:

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1 Q. Is that a correct statement?
2 A. Yes.
3 Q. Okay. Mr. Oriente, I
4 understand that you sometimes have a
5 problem hearing. If you can't hear what
6 I'm saying, please interrupt me. Say, "I
7 just didn't hear you. Repeat the
8 question." Okay? And we'll do that as
9 we proceed here today.
10 A. Okay.
11 Q. All right. So if management
12 at McKesson hid information from you
13 about how they were going about
14 distributing their drugs, that would
15 affect your ability as a regulator to do
16 your job, wouldn't it?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: I did -- I did
20 not know of any hidden
21 information.
22 BY MR. PAPANTONIO:
23 Q. I didn't say that. Listen
24 very carefully to the questions,

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1 Mr. Oriente.
2 I asked you if McKesson
3 management hid information about how they
4 were going about distributing narcotic
5 drugs, that would affect your ability to
6 do your job as a regulator. Is that yes
7 or no?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: It could if I
11 didn't have all the information,
12 yes.
13 BY MR. PAPANTONIO:
14 Q. It could if you didn't have
15 all the information. Why would it affect
16 you if you didn't have all the
17 information?
18 MS. HENN: Objection to
19 form.
20 THE WITNESS: I would -- I
21 would need to understand the full
22 amount that a customer was
23 purchasing.
24 BY MR. PAPANTONIO:

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1 Q. Okay. Fair enough. So the
2 more information you had about how
3 McKesson was going about distributing
4 narcotic drugs, the better you can
5 determine how to adjust your job in
6 regulatory; is that a correct statement?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: Could you
10 repeat the question?
11 BY MR. PAPANTONIO:
12 Q. Yeah. The more information
13 you had about how McKesson was
14 distributing their drugs, their narcotic
15 drugs, the better you could do as a
16 regulator in performing your job?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: Yes. The more
20 information I had, the better
21 decision I could make.
22 BY MR. PAPANTONIO:
23 Q. And, Mr. Oriente, if the
24 information about distribution of those

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1 narcotics is hidden from you as a
 2 regulator, you're not able to adjust to
 3 what you need to do as a regulator. If
 4 they're hiding information, you can't do
 5 your job as a regulator. Would you agree
 6 with that?

7 MS. HENN: Objection to
 8 form.

9 THE WITNESS: I would say
 10 that I had all the information
 11 that I needed to perform my job.
 12 I was unaware of any information
 13 not being shared with myself.

14 BY MR. PAPANTONIO:
 15 Q. All right. Let's talk about
 16 some of that information right now.

17 MR. PAPANTONIO: Please put
 18 up Document 1428, Evan. Mr. --
 19 huh?

20 MS. MOORE: That's McKesson
 21 Oriente 383.

22 BY MR. PAPANTONIO:
 23 Q. Okay. As we're proceeding
 24 here, Emily, what's going to happen is

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1 she's going to read a number for
 2 identification of the document into the
 3 record because we're marking each one of
 4 these as we go.

5 MR. PAPANTONIO: Okay. So,
 6 Carol, if you would do that as you
 7 proceed.

8 Did you hear what that
 9 number was? Okay.

10 MS. HENN: So, Counsel, is
 11 the document premarked? Is that
 12 what you're saying?

13 MR. PAPANTONIO: Yes, it's
 14 premarked, because that way we
 15 can -- we're doing it by Oriente
 16 exhibit as a deposition. We're
 17 going to be doing that as we go
 18 forward. I'm sure you are going
 19 to be covering a lot of these
 20 depos.

21 The idea is we're going to
 22 be marking a document with an
 23 exhibit for that deposition.

24 MS. HENN: Is there any

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1 reason not to start with McKesson
 2 Oriente-1?

3 MR. PAPANTONIO: Yeah, there
 4 is. There is. And we'll explain
 5 that as we go. But this is easily
 6 identified when you go back and
 7 look at the record. That's all
 8 I'm saying.

9 MS. HENN: Just for the
 10 record, our preference would be to
 11 do it in order to make it simpler.
 12 You handed me two copies. Which
 13 one is for the witness?

14 MR. PAPANTONIO: One is for
 15 the witness, and one for you, and
 16 one is for Emily next to you if
 17 you'd like.

18 MS. HENN: Do you have one
 19 for -- additional copies?

20 MR. PAPANTONIO: I don't
 21 think we have that many. You may
 22 have to -- you may have to share.

23 MS. HENN: I think the
 24 protocol requires four copies --

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1 MR. PAPANTONIO: I'm sure we
 2 do have four copies.

3 MS. HENN: -- so defendants
 4 can have copies.

5 (Document marked for
 6 identification as Exhibit
 7 MCK-Oriente-383.)

8 BY MR. PAPANTONIO:
 9 Q. All right. Let -- sir,
 10 Mr. Oriente, as we're proceeding today
 11 what I'm going to be doing is I'm going
 12 to be putting documents up on the screen.
 13 The screen will both be in front of you,
 14 you'll be able to see the big screen up
 15 here.

16 Either -- feel free to use
 17 either one.

18 A. All right. Thank you.

19 Q. Now, this document is titled
 20 "In the Matter of McKesson Corporation."
 21 Take a look at that. Let's go -- let's
 22 take a look at this document.

23 Have you seen this document?

24 A. I have not.

<p style="text-align: right;">Page 34</p> <p>1 Q. Okay. When did you first 2 get information -- when were you first 3 told by your company that you were going 4 to be appearing here in a deposition? 5 A. I don't recall the exact 6 date. It would have been a few weeks 7 back. 8 Q. Would you say three weeks, 9 four weeks? What would you say? 10 MS. HENN: Objection to 11 form. 12 THE WITNESS: I would take 13 an estimate of about four weeks. 14 BY MR. PAPANTONIO: 15 Q. Okay. In that time that you 16 knew that you were going to be coming 17 here for a deposition, did you have the 18 opportunity to review any documents? 19 A. No. I did not go back and 20 look at anything. 21 Q. All right. But this 22 document that we're looking at right now 23 called, "In the Matter of McKesson 24 Corporation," it says at the bottom, "DEA</p>	<p style="text-align: right;">Page 36</p> <p>1 numbers as we go. Okay. 2 MS. HENN: Okay. I would 3 just like to note that this 4 document is marked confidential, 5 and that pursuant to the protocol 6 entered by the court, the court 7 reporter shall clearly mark this 8 transcript prior to the expiration 9 of the 30-day period as highly 10 confidential subject to further 11 confidentiality review. Thank 12 you. 13 BY MR. PAPANTONIO: 14 Q. Well, Mr. Oriente, this was 15 so confidential that they didn't tell you 16 about it, did they? 17 MS. HENN: Objection to 18 form. 19 BY MR. PAPANTONIO: 20 Q. I mean, this is -- you heard 21 this is a confidential document. And you 22 had been with the company -- how many -- 23 how many years you've been with the 24 company?</p>
<p style="text-align: right;">Page 35</p> <p>1 Diversion Group, Washington Division." 2 You've never seen this 3 document; is that a correct statement? 4 A. That is correct. 5 Q. All right. Would you turn 6 to the next page of that document. I 7 want to review this document with you. 8 And I want to ask you questions about 9 this document as far as your 10 understanding of your regulatory 11 responsibilities for this company. Okay? 12 MS. HENN: Counsel, just one 13 statement I'd like to make on the 14 record. 15 First of all, did we get the 16 Bates number of the document into 17 the record? 18 MR. PAPANTONIO: No. We're 19 going to -- here's what we're 20 going to do. We're not going to 21 take the time to read Bates 22 numbers here, because we only have 23 so much time. At the end of it we 24 will sit there and read the Bates</p>	<p style="text-align: right;">Page 37</p> <p>1 A. With McKesson total, 2 14 years. 3 Q. And this is so confidential 4 that they didn't tell you about it and 5 you're one of the directors of regulatory 6 for McKesson; is that a correct 7 statement? 8 MS. HENN: Objection to 9 form. 10 THE WITNESS: I am one of 11 the directors of regulatory, yes. 12 BY MR. PAPANTONIO: 13 Q. And do you see where it 14 says -- the very first line, "This is an 15 investigation of the actions and 16 practices of McKesson Corporation." 17 Did you know that this 18 investigation was going on by the DEA? 19 A. I knew that Landover was 20 being involved in an investigation. But 21 I have not seen the document. 22 Q. Well, sir, you -- Landover 23 was an area that you regulated, isn't it? 24 MS. HENN: Objection to</p>

<p style="text-align: right;">Page 38</p> <p>1 form.</p> <p>2 THE WITNESS: I was</p> <p>3 responsible for the Landover</p> <p>4 distribution center, yes.</p> <p>5 BY MR. PAPANTONIO:</p> <p>6 Q. Tell the jury what the</p> <p>7 Landover distribution center is.</p> <p>8 A. Landover distribution center</p> <p>9 was located in Landover, Maryland, and it</p> <p>10 distributed controlled substances, Rx</p> <p>11 product and OTC to McKesson customers in</p> <p>12 that geographic area.</p> <p>13 Q. Tell me what the</p> <p>14 geographic -- how many states did that</p> <p>15 geographic area cover?</p> <p>16 A. The Landover distribution</p> <p>17 center had customers in, of course,</p> <p>18 Maryland, West Virginia, Delaware,</p> <p>19 Washington D.C. I believe that was the</p> <p>20 general area that they serviced.</p> <p>21 Q. How many years were you the</p> <p>22 director of regulatory there at Landover?</p> <p>23 MS. HENN: Objection to</p> <p>24 form.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. That's what the document</p> <p>2 says, yes.</p> <p>3 Q. And during that entire time,</p> <p>4 you were there at Landover, weren't you?</p> <p>5 MS. HENN: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. PAPANTONIO:</p> <p>9 Q. During the time 2008 through</p> <p>10 2012, you were there and you were the</p> <p>11 director -- you were the director of</p> <p>12 regulatory; is that a correct statement?</p> <p>13 A. Yes.</p> <p>14 Q. And then it actually -- it</p> <p>15 mentions right down underneath the next</p> <p>16 line, it says, "Landover" -- do you see</p> <p>17 where it says "Landover distribution</p> <p>18 center"? It gives DEA, and then it gives</p> <p>19 a number. That number, what is that</p> <p>20 number, sir?</p> <p>21 A. I do not know what that</p> <p>22 number stands for.</p> <p>23 Q. Okay. And then it says,</p> <p>24 "Landover is no longer in operation."</p>
<p style="text-align: right;">Page 39</p> <p>1 THE WITNESS: I'm not</p> <p>2 exactly sure when the Landover</p> <p>3 distribution center stopped</p> <p>4 operating. But I was there from</p> <p>5 late 2007 to when it closed.</p> <p>6 BY MR. PAPANTONIO:</p> <p>7 Q. And it closed in 2012,</p> <p>8 didn't it?</p> <p>9 A. I am unaware of the exact</p> <p>10 date that it closed.</p> <p>11 Q. All right. We'll get to</p> <p>12 that.</p> <p>13 It says, "This is an</p> <p>14 investigation of the actions and</p> <p>15 practices of McKesson Corporation."</p> <p>16 That's what the first line reads, right?</p> <p>17 And you knew about the</p> <p>18 investigation going on, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And then it says, from</p> <p>21 May 2008 through May -- through</p> <p>22 March 2012. That was the area of time</p> <p>23 that the investigation was taking place</p> <p>24 on Landover, correct?</p>	<p style="text-align: right;">Page 41</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Go to the next page please.</p> <p>4 MS. HENN: And I'll just</p> <p>5 remind the witness he can take</p> <p>6 whatever time he'd like to review</p> <p>7 the document.</p> <p>8 BY MR. PAPANTONIO:</p> <p>9 Q. Do you see the next page</p> <p>10 there? It says, "Civil liability."</p> <p>11 Do you see that?</p> <p>12 A. Yes. It's at the top of the</p> <p>13 page.</p> <p>14 Q. In this confidential</p> <p>15 document that you've never seen prior to</p> <p>16 me putting it in front of you today, the</p> <p>17 first thing it says is it talks about</p> <p>18 what McKesson liability is.</p> <p>19 Do you see, "McKesson</p> <p>20 liability emanates from 21 U.S.C.</p> <p>21 842(a)5."</p> <p>22 Do you see that?</p> <p>23 A. Yes, I see it here.</p> <p>24 Q. You know what that is, don't</p>

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1 you, Mr. Oriente?
 2 MS. HENN: Objection to
 3 form.
 4 BY MR. PAPANTONIO:
 5 Q. You've seen that number
 6 before, haven't you?
 7 A. I have not seen that number
 8 before, no.
 9 Q. Before you went to -- before
 10 you went to regulatory, nobody told you
 11 about 21 U.S.C. 842. Is that your
 12 testimony here today?
 13 MS. HENN: Objection to
 14 form.
 15 THE WITNESS: I am not
 16 familiar with that specific
 17 listing.
 18 BY MR. PAPANTONIO:
 19 Q. Well, let's do -- let's look
 20 at the next listing, 21 U.S.C. 823. Had
 21 anybody shown you that prior to the time
 22 that you took over regulatory -- director
 23 of regulatory at Landover? Had anybody
 24 showed you that?

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1 A. No one showed me that. But
 2 I am familiar that, you know, we had a
 3 system in place to watch for diversion as
 4 far as sales for size, frequency, and
 5 pattern of orders.
 6 Q. Right. And if you didn't do
 7 that, you would be breaking the law,
 8 wouldn't you?
 9 MS. HENN: Objection to
 10 form.
 11 THE WITNESS: I can't say
 12 that we'd be breaking the law.
 13 That is the requirement to meet
 14 that requirement.
 15 BY MR. PAPANTONIO:
 16 Q. Well, if you didn't do that,
 17 sir, the DEA would fine you, wouldn't
 18 they?
 19 MS. HENN: Objection to
 20 form.
 21 BY MR. PAPANTONIO:
 22 Q. If you didn't do what 21
 23 U.S.C. 823 told you to do, the DEA would
 24 fine you, yes or no?

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1 MS. HENN: Objection to
 2 form.
 3 THE WITNESS: I believe they
 4 would have the ability to. It's
 5 not necessarily that they would.
 6 BY MR. PAPANTONIO:
 7 Q. Well, not to comply with 21
 8 U.S.C. 823 would be unlawful. Can we
 9 agree on that?
 10 A. We need to follow the
 11 regulation. That is correct.
 12 Q. And not to do it would be
 13 considered unlawful, yes or no?
 14 MS. HENN: Objection to
 15 form.
 16 THE WITNESS: We would need
 17 to follow that, and I believe that
 18 we would be out of compliance if
 19 we did not.
 20 BY MR. PAPANTONIO:
 21 Q. Well, you see it says,
 22 "Failure to provide effective controls
 23 against theft, diversion of controlled
 24 substance in violation of 21 C.F.R.," and

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1 then it gives you a section, right?
 2 Are you familiar with 21
 3 C.F.R. 1301?
 4 A. I don't know the exact
 5 listing of 21 C.F.R. and that section.
 6 But I do understand that we needed to
 7 have a controlled substance in place, and
 8 that is, you know, how we monitored the
 9 sales of the controlled substances.
 10 Q. Well, you know one thing 21
 11 U.S.C. 823 told you to do is that you
 12 were supposed to provide suspicious order
 13 reports to the DEA, weren't you?
 14 MS. HENN: Objection to
 15 form.
 16 THE WITNESS: Yes, we would
 17 report suspicious orders when we
 18 deemed them suspicious.
 19 BY MR. PAPANTONIO:
 20 Q. And if you deemed them
 21 suspicious and you failed to report them,
 22 that would be unlawful, wouldn't it?
 23 MS. HENN: Objection to
 24 form.

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1 THE WITNESS: We would
 2 report those that were deemed
 3 suspicious, yes.
 4 BY MR. PAPANTONIO:
 5 Q. And if you failed to do
 6 that, that would be unlawful, correct?
 7 Yes or no sir?
 8 MS. HENN: Objection.
 9 Objection to form.
 10 THE WITNESS: If we did not
 11 report a suspicious order that we
 12 deemed suspicious, yes.
 13 BY MR. PAPANTONIO:
 14 Q. All right. And then it says
 15 right -- the next one is C.F.R. 1301.
 16 You've seen that before, haven't you? In
 17 your role as regulatory for Landover, you
 18 were familiar with 21 C.F.R. 1301,
 19 correct?
 20 MS. HENN: Objection to
 21 form.
 22 THE WITNESS: I, again, do
 23 not know the specific regulation
 24 from -- from memory. I know that

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1 we followed the 21 C.F.R. But I
 2 don't -- I cannot tell you what 21
 3 C.F.R. Section 1301.71
 4 specifically states.
 5 BY MR. PAPANTONIO:
 6 Q. You did -- how many years
 7 were you regulatory?
 8 MS. HENN: Objection to
 9 form.
 10 THE WITNESS: Since late
 11 2007 through today.
 12 BY MR. PAPANTONIO:
 13 Q. You're still in regulatory
 14 today, correct?
 15 A. That is correct.
 16 Q. And you understand, being in
 17 regulatory, that you had a responsibility
 18 to design and operate a system that would
 19 disclose suspicious orders to the DEA
 20 when you found them to be suspicious; is
 21 that correct?
 22 MS. HENN: Objection to
 23 form.
 24 THE WITNESS: That is

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1 correct.
 2 BY MR. PAPANTONIO:
 3 Q. And not to do that would be
 4 breaking the law, wouldn't it?
 5 MS. HENN: Same objection.
 6 BY MR. PAPANTONIO:
 7 Q. Correct? It would be
 8 breaking the law, wouldn't it,
 9 Mr. Oriente?
 10 A. Not to report the suspicious
 11 orders would not be following the
 12 regulation.
 13 Q. Isn't -- but let's be clear.
 14 Because we're going to be talking. It
 15 would be breaking the law that you're
 16 supposed to follow under 21 U.S.C., yes
 17 or no?
 18 MS. HENN: Objection to
 19 form.
 20 THE WITNESS: We have a
 21 requirement to follow that
 22 requirement, and so we need to
 23 follow the law.
 24 BY MR. PAPANTONIO:

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1 Q. And if you don't, that's
 2 called breaking the law, isn't it? Can
 3 we agree on that?
 4 MS. HENN: Objection to
 5 form.
 6 BY MR. PAPANTONIO:
 7 Q. Because if there's something
 8 in between, Mr. Oriente, this is your
 9 time to tell everybody in this room, if
 10 there's something that's different from
 11 what I'm saying, break the law. Is there
 12 another term that you want to use as we
 13 proceed here today?
 14 MS. HENN: Objection to
 15 form.
 16 THE WITNESS: I would not
 17 say that -- a different term. It
 18 would -- it would not be following
 19 the law.
 20 BY MR. PAPANTONIO:
 21 Q. Okay. Okay. I'm good with
 22 that, Mr. Oriente. We'll move on.
 23 Let's go to the next page.
 24 MS. HENN: I'd also like to

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1 ask the approximately three people
2 that joined the phone call since
3 we began to please identify
4 themselves for the record.
5 Anybody on the phone who's
6 not yet identified yourself, could
7 you please just identify yourself
8 for the record?
9 MR. GOETZ: Dan Goetz from
10 Weisman Kennedy.
11 MS. COOK: Renee Cook.
12 MR. HERMAN: Dustin Herman
13 from Spangenberg, for the
14 plaintiffs.
15 MS. HENN: Anybody else?
16 MR. DeROCHE: James DeRoche
17 from Weisman Kennedy.
18 MS. HENN: Anybody else?
19 Thank you.
20 MR. PAPANTONIO: Thank you,
21 Emily, for catching that. I
22 didn't hear the little beeps.
23 BY MR. PAPANTONIO:
24 Q. All right. Mr. Oriente,

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1 let's go ahead to the next page. Now, as
2 your lawyer told you, I don't want to
3 jump into this page without you taking a
4 look at it. Take a minute and look at
5 it, because this is the first time you've
6 seen this confidential document. I think
7 it was characterized as highly
8 confidential, right?
9 MS. HENN: Objection to
10 form.
11 BY MR. PAPANTONIO:
12 Q. It says, "McKesson is
13 subject" -- let's just look at Paragraph
14 2. 21 U.S.C. 842.
15 Do you see that?
16 Have you ever seen 21 U.S.C.
17 842?
18 A. I have not.
19 Q. Sir, let me preface
20 something. Did you not attend -- did you
21 not attend seminars that the DEA actually
22 put on for directors of regulatory for
23 McKesson? Do you ever remember attending
24 a seminar that talked to you about these

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1 very things that you're supposed to be
2 doing as a regulator?
3 MS. HENN: Objection to
4 form.
5 THE WITNESS: I personally
6 did not attend the seminar.
7 BY MR. PAPANTONIO:
8 Q. But you were a director. Is
9 there any -- at Landover, correct? You
10 were a director of regulatory?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: Landover was
14 one of my distribution centers
15 that I oversaw, yes.
16 BY MR. PAPANTONIO:
17 Q. We're going to talk about
18 other distribution centers. But right
19 now, we can establish that you were the
20 director at Landover; is that a correct
21 statement?
22 MS. HENN: Objection to
23 form.
24 THE WITNESS: For

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1 regulatory, yes.
2 BY MR. PAPANTONIO:
3 Q. All right. And you never
4 attended any of the DEA seminars that
5 they put on for directors of regulatory
6 telling them what the laws were and what
7 your responsibilities were; is that a
8 correct statement?
9 A. I did not attend.
10 Q. All right. So let's --
11 let's read this. It says, "21 U.S.C.
12 provides that it's unlawful" -- they're
13 using that word too, unlawful --
14 "unlawful to refuse or negligently fail
15 to make, keep, furnish any record,
16 report, notification, declaration, order,
17 order form, statement, invoice,
18 information required under this section."
19 Do you see that?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: I see that
23 listed here.
24 BY MR. PAPANTONIO:

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1 Q. And the truth is, where it
2 says -- where it says it's unlawful to
3 refuse to fail to make this information
4 available to the DEA, that's exactly what
5 McKesson did, is they refused to give
6 information to the DEA about their
7 narcotic drugs that they were selling to
8 pharmacies, even when McKesson understood
9 that suspicious orders were taking place?
10 MS. HENN: Objection to
11 form.
12 THE WITNESS: I'm not --
13 not -- I am not aware of any
14 refusal to give information to DEA
15 when they requested it.
16 BY MR. PAPANTONIO:
17 Q. Sir, is there anybody else
18 that was -- was it just you directing --
19 was it just you who was the director at
20 Landover of regulatory?
21 A. I was the director of
22 regulatory at Landover. Any type of
23 information that the DEA requested would
24 go through our legal department.

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1 I was not responsible to
2 send that information to DEA.
3 Q. Okay. So lawyers -- what
4 you're telling us is lawyers had the last
5 decision on what was supposed to be sent
6 to the DEA. Is that your testimony?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: I don't know
10 if it was lawyers. It was our
11 legal department that we would
12 submit all requests to.
13 BY MR. PAPANTONIO:
14 Q. And they certainly -- it's
15 important that you know what they're
16 submitting to the DEA and what they're
17 not submitting to the DEA. As a
18 regulator, that's important to you, isn't
19 it, Mr. Oriente?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: Once we would
23 send in the request that we would
24 receive either through a subpoena

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1 or other action through our legal
2 department in San Francisco, they
3 would then furnish the information
4 to DEA.
5 BY MR. PAPANTONIO:
6 Q. So the lawyers decided what
7 was supposed to go on to the DEA. Is
8 that your testimony?
9 A. My testimony is the legal
10 department would send it in. I don't
11 know exactly who in the legal department
12 would furnish the information that DEA
13 was requesting.
14 Q. But nobody -- we know this
15 much. The legal department never gave
16 you this document, this highly
17 confidential document that we're looking
18 at right now. Nobody in legal gave you
19 that, did they?
20 MS. HENN: Counsel, you're
21 referring to the DEA document,
22 Exhibit --
23 (Brief interruption.)
24 BY MR. PAPANTONIO:

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1 Q. Okay. Listen to the
2 question again. All right? You never
3 received this document that is -- that
4 we've decided is a confidential document.
5 Legal never gave you that when you were
6 trying to do your job as a regulator; is
7 that correct statement?
8 A. It's a correct statement
9 that I've not seen this document, yes.
10 Q. Okay. And legal never gave
11 it to you as far as you can remember; is
12 that correct statement?
13 A. I thought I just answered
14 that, but.
15 Q. Well, if you did, are you --
16 A. Yeah.
17 Q. -- satisfied with your
18 answer?
19 A. I have not seen this
20 document before today.
21 Q. Mr. Oriente, I'm not trying
22 to accuse you of anything you haven't
23 done here or -- there's no accusation
24 here. I'm simply trying to find out what

<p style="text-align: right;">Page 58</p> <p>1 information was shared with you so you 2 could do your job as a regulator at 3 Landover. Do you understand that? 4 A. Yes. 5 Q. Okay. So let's go -- let's 6 go to the next page. The next page is 7 Page 3; is that right? No. Excuse me, 8 page -- next page over, 5. It says 9 statute and regs -- 10 MS. HENN: Counsel, is there 11 a page number you're referring to? 12 MR. PAPANTONIO: Yeah, if 13 you look at -- on the Bates stamp, 14 that five down there would be your 15 page number. 16 THE WITNESS: The next one. 17 MR. PAPANTONIO: The very 18 next page. 19 BY MR. PAPANTONIO: 20 Q. At the top of it, it says, 21 "Statute and regs." 22 Do you see that? 23 A. Yes. 24 Q. It says, "The registrant</p>	<p style="text-align: right;">Page 60</p> <p>1 that says, "Oh, we don't -- McKesson 2 doesn't have to report suspicious orders. 3 We have the right to report suspicious 4 customers"? 5 Do you see anything in that 6 wording there? 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: The statement 10 here says suspicious orders. 11 BY MR. PAPANTONIO: 12 Q. Correct. It doesn't say 13 suspicious customers, does it? 14 A. Suspicious customers is not 15 listed here, no. 16 Q. And that would -- so let's 17 go to the next page. 18 Statute and regulations. It 19 says, "The registrant" -- that would be 20 McKesson, right? You'd be a registrant 21 with the DEA? 22 A. Yes. 23 Q. All right. Landover would 24 be a registrant with the DEA; is that</p>
<p style="text-align: right;">Page 59</p> <p>1 shall design and operate a system to 2 disclose the registrant's suspicious 3 orders of controlled substances." 4 Do you see the term 5 "suspicious orders"? 6 A. Yes. 7 Q. Do you ever -- do you see 8 any mention about there being a 9 responsibility to report suspicious 10 customers? 11 MS. HENN: Objection to 12 form. 13 BY MR. PAPANTONIO: 14 Q. Is there anything -- is 15 there anything in that statute right 16 there that says you have the right not to 17 report suspicious orders, but to report 18 suspicious customers? 19 MS. HENN: Counsel, you're 20 referring to the quote from the 21 regulation there on Page 5? 22 MR. PAPANTONIO: Right. 23 BY MR. PAPANTONIO: 24 Q. Do you see anything in there</p>	<p style="text-align: right;">Page 61</p> <p>1 correct? 2 A. Yes. 3 Q. "The registrant shall inform 4 the field division of the DEA in this 5 area of suspicious orders when discovered 6 by the registrant." 7 Do you see that? 8 MS. HENN: Objection to 9 form. 10 BY MR. PAPANTONIO: 11 Q. The registrant shall inform 12 the field division office of the DEA in 13 this area of suspicious orders when 14 discovered by the registrant." 15 Do you see that? 16 A. Yes. I see that. 17 Q. Now, this says "when 18 discovered." Do you see those two words, 19 "when discovered"? 20 A. Yes. 21 Q. This doesn't say you can do 22 it three months after you find it. It 23 doesn't say you can -- you can report the 24 suspicious order four months after you</p>

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1 find it. This says when it's discovered,
2 you have responsibility to tell the DEA
3 about the fact that you're finding a
4 suspicious order; is that correct?
5 MS. HENN: Objection to
6 form.
7 THE WITNESS: It's
8 underlined in this document, "when
9 discovered."
10 BY MR. PAPANTONIO:
11 Q. All right. And it goes on
12 to even tell you -- it even tells you
13 what a suspicious order is supposed to
14 look like. It says -- it says,
15 "Suspicious orders include orders of
16 unusual size."
17 Do you see that? Unusual
18 size. You would agree with that. That'd
19 be suspicious if it's an unusual size,
20 right?
21 MS. HENN: Objection to
22 form.
23 THE WITNESS: Yes.
24 BY MR. PAPANTONIO:

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1 Q. And you'd agree it would be
2 suspicious if it's -- if it's not a -- if
3 it's not a normal pattern. You'd agree
4 with that, right?
5 MS. HENN: Objection to
6 form.
7 THE WITNESS: It says
8 "deviating substantially from a
9 normal pattern."
10 BY MR. PAPANTONIO:
11 Q. Right. You would agree that
12 would be suspicious, correct?
13 A. Deviating substantially,
14 yes.
15 Q. And you would agree that
16 unusual frequency of an order would be
17 suspicious, correct?
18 MS. HENN: Objection to
19 form.
20 THE WITNESS: Yes. Orders
21 of unusual frequency, size and
22 pattern. Those are the three.
23 BY MR. PAPANTONIO:
24 Q. Let's go to the next page.

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1 Civil liability at the top of it.
2 Do you see that?
3 It says, "Civil liability."
4 It says, "A registrant who violates 842
5 is" -- "842(a)5 is subject to a civil
6 penalty of \$10,000 per occurrence."
7 Did you know that every time
8 you violated one of these statutes that
9 were you subject to a civic penalty of up
10 to \$10,000 every time you did it?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: I was aware
14 that there was a penalty for each
15 occurrence, yes.
16 BY MR. PAPANTONIO:
17 Q. Did you know it was \$10,000?
18 A. I wasn't exactly sure of the
19 monetary fine.
20 Q. It says, "In other words,
21 McKesson is subject to a civil penalty up
22 to \$10,000 for each suspicious order or
23 activity that went unreported."
24 Do you follow that? Each

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1 activity that went unreported, or was not
2 reported when discovered.
3 Do you see that?
4 A. Yes, I see that.
5 Q. And when -- do you see this,
6 sir, the word, sir, "when discovered"?
7 Do you see those words in that statement,
8 "when discovered"? Do you see anything
9 in there that tells you that you're able
10 to report a suspicious order four months
11 after you get the suspicious order? Is
12 there anything in that statute that says
13 that?
14 A. The statute says "when
15 discovered."
16 Q. So you'd agree that if you
17 break this law, this is not -- this is a
18 serious violation, isn't it? \$10,000
19 fine is a pretty serious violation, isn't
20 it?
21 MS. HENN: Objection to
22 form.
23 THE WITNESS: I really can't
24 say if that's a serious --

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1 BY MR. PAPANTONIO:

2 Q. Well, I mean, for most
3 people on the jury watching this,
4 \$10,000, if they have to pay \$10,000,
5 that's pretty serious, isn't it?

6 MS. HENN: Objection to
7 form.

8 THE WITNESS: It's a high
9 dollar amount, absolutely.

10 BY MR. PAPANTONIO:

11 Q. Well, yeah. Is it an -- is
12 it an amount of money that got your
13 attention, as far as not being willing to
14 violate this statute? Does \$10,000 per
15 violation get your attention?

16 MS. HENN: Objection to
17 form.

18 THE WITNESS: That would not
19 make my determination on, you
20 know, getting my attention.

21 Any fine would get my
22 attention.

23 BY MR. PAPANTONIO:

24 Q. Okay. Certainly a \$10,000

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1 fine would get your attention, wouldn't
2 it?

3 A. It would.

4 Q. And we've also -- and we've
5 also established that, again, in defense
6 of you, you haven't seen this document
7 prior to today, correct?

8 A. That is correct.

9 Q. All right. The next page,
10 it says, "2008 settlement terms."

11 Do you see that?

12 A. Yes.

13 Q. Now, it says, "In 2008
14 McKesson entered into a settlement
15 agreement resolving claims under 21
16 U.S.C. 842(a)5 and C."

17 Now, did you -- did you know
18 prior to coming here today to testify
19 that before this document -- well, did
20 you know that in 2008 the DEA and the DOJ
21 caught you engaged in break -- caught
22 McKesson engaged in breaking the law?

23 MS. HENN: Objection to
24 form.

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1 BY MR. PAPANTONIO:

2 Q. Did you know that prior to
3 coming here today?

4 MS. HENN: Objection to
5 form.

6 THE WITNESS: I knew in 2008
7 that McKesson paid a settlement
8 fine, yes.

9 BY MR. PAPANTONIO:

10 Q. And did you know that they
11 agreed that they had broken the law?

12 MS. HENN: Objection to
13 form.

14 BY MR. PAPANTONIO:

15 Q. That your company admitted
16 that they knowingly broke the law dealing
17 with narcotic drugs?

18 MS. HENN: Objection.

19 BY MR. PAPANTONIO:

20 Q. Did you know that prior to
21 coming here today?

22 MS. HENN: Objection to
23 form.

24 THE WITNESS: I did not know

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1 that. I know they paid the fine.

2 But I didn't know about the
3 agreement that they broke the law.

4 BY MR. PAPANTONIO:

5 Q. Well, you were with them in
6 2008, weren't you?

7 A. Yes.

8 Q. And so nobody gave you the
9 details of them admitting that they broke
10 the law --

11 MS. HENN: Objection.

12 BY MR. PAPANTONIO:

13 Q. -- in dealing with
14 narcotics?

15 MS. HENN: Objection to
16 form.

17 THE WITNESS: I understood
18 that a fine was paid. And that
19 was my understanding.

20 BY MR. PAPANTONIO:

21 Q. All right. Did anybody talk
22 to you about the things they had done
23 wrong prior to 2008? Did anybody tell
24 you, we did this wrong, we did that

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1 wrong? Did anybody give you a list of
 2 all the things that McKesson had done to
 3 break the law and be fined in this 2008
 4 settlement?
 5 MS. HENN: Objection to
 6 form.
 7 THE WITNESS: I understood
 8 that it was for not reporting what
 9 was deemed suspicious orders by
 10 DEA.
 11 BY MR. PAPANTONIO:
 12 Q. Well, did you take the time
 13 to take a look at what they had done to
 14 where the DEA said, "You broke the law,
 15 McKesson," and then McKesson admits,
 16 "Yeah, we broke the law"? Did you take a
 17 look to see what they did to break the
 18 law?
 19 MS. HENN: Objection to
 20 form.
 21 THE WITNESS: Again, I was
 22 not aware that we had broken the
 23 law. I know that there was an
 24 agreement to settle and that the

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1 fine was paid.
 2 BY MR. PAPANTONIO:
 3 Q. Well, you paid a \$13 million
 4 fine for that one thing in 2008, didn't
 5 you?
 6 MS. HENN: Objection to
 7 form.
 8 BY MR. PAPANTONIO:
 9 Q. Did you know that?
 10 MS. HENN: Objection to
 11 form.
 12 BY MR. PAPANTONIO:
 13 Q. \$13 million.
 14 MS. HENN: Same objection.
 15 THE WITNESS: I knew that
 16 the fine was paid. And I knew
 17 there was settlement and an
 18 agreement. But I did not know
 19 that there was, you know, the
 20 amount -- the amount that was
 21 paid, it was a settlement. I did
 22 not know that there was wrongdoing
 23 admitted.
 24 BY MR. PAPANTONIO:

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1 Q. Okay. Nobody told you that
 2 McKesson admitted that they broke the
 3 law? Prior to you coming here today,
 4 that's the first time you've heard that;
 5 is that correct?
 6 MS. HENN: Objection to
 7 form.
 8 THE WITNESS: I understood
 9 that we paid a settlement. That
 10 is -- and I thought there was an
 11 agreement that the settlement --
 12 BY MR. PAPANTONIO:
 13 Q. Well, you just --
 14 MS. HENN: Counsel, could
 15 you please --
 16 BY MR. PAPANTONIO:
 17 Q. Go ahead go ahead.
 18 MS. HENN: -- let him finish
 19 his answers. Thank you.
 20 BY MR. PAPANTONIO:
 21 Q. Go ahead.
 22 A. The settlement would be paid
 23 and that McKesson would make changes but
 24 not that there was, you know, guilt and

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1 admittance of not reporting the errors --
 2 Q. So --
 3 A. -- the way I understood it.
 4 Q. So you understood that
 5 McKesson, just out of -- just paid
 6 \$13 million? For what, you don't know
 7 what it is, correct?
 8 MS. HENN: Objection to
 9 form.
 10 THE WITNESS: No.
 11 BY MR. PAPANTONIO:
 12 Q. Is that right?
 13 A. No, that is not correct.
 14 What I understood was that
 15 McKesson paid a settlement fine for not
 16 reporting what the DEA deemed as
 17 suspicious orders.
 18 Q. Well, it was more than that,
 19 wasn't it, sir? You know that it
 20 involved more than just suspicious
 21 orders, don't you?
 22 A. I do not know that.
 23 Q. Is that the first time
 24 you've heard it?

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1 MS. HENN: Objection to
2 form.
3 THE WITNESS: You're saying
4 that it involved more?
5 BY MR. PAPANTONIO:
6 Q. Yes.
7 A. I don't know what more
8 you're referring to.
9 Q. Because you never took the
10 time to look at the settlement, did you?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: It was not my
14 responsibility to look at the
15 settlement.
16 BY MR. PAPANTONIO:
17 Q. Sir, it was your
18 responsibility to be a regulator for
19 McKesson that was selling narcotics to
20 the American public. That was your job,
21 wasn't it?
22 MS. HENN: Objection to
23 form.
24 THE WITNESS: My job was to

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1 review purchases that were made by
2 customers on a daily basis and to
3 look at what customers are
4 purchasing, the amount they are
5 purchasing, the quantity that they
6 are purchasing. That was my
7 responsibility as the regulatory
8 director over Landover
9 distribution center.
10 BY MR. PAPANTONIO:
11 Q. And in that responsibility,
12 we've already, within the last half hour,
13 established that nobody has even shown
14 you this document that we're looking at
15 called "In the Matter of McKesson
16 Corporation," nobody showed that to you,
17 right?
18 A. I have not seen this
19 document.
20 Q. And nobody showed you the
21 2008 settlement that McKesson had with
22 the DEA and the Department of Justice to
23 instruct you about what you should or
24 should not be doing as a regulator?

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1 MS. HENN: Objection to
2 form.
3 THE WITNESS: What we should
4 be doing is reviewing purchases,
5 as it was stated in the
6 requirement, for size, pattern and
7 frequency, and then making a
8 determination if we deemed any of
9 those suspicious.
10 BY MR. PAPANTONIO:
11 Q. And if you don't do that, it
12 is unlawful, correct?
13 MS. HENN: Objection to
14 form.
15 BY MR. PAPANTONIO:
16 Q. It's breaking the law. If
17 you don't do what you just described, you
18 are breaking the law of the United
19 States, correct?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: In order to
23 meet the requirement, you need to
24 do that.

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1 BY MR. PAPANTONIO:
2 Q. All right. And then so you
3 said -- I think you just mentioned that
4 in 2008 it's your understanding that
5 McKesson settled with the Department of
6 Justice and agreed to do what? Do you
7 know what they agreed to do?
8 A. From the way I understood
9 it, McKesson would report suspicious
10 orders on a more ongoing basis to
11 determine if customers were purchasing in
12 the correct amount for their size
13 business.
14 Q. Sir, you see the second
15 paragraph, okay. Look, you can read
16 this. It says, "McKesson agreed to
17 implement a program designed to detect
18 and prevent diversion of controlled
19 substances."
20 Do you see where it says
21 that?
22 MS. HENN: Objection to
23 form.
24 And, Counsel, I'd appreciate

<p style="text-align: right;">Page 78</p> <p>1 it if you would treat the witness 2 a little more respectfully. 3 BY MR. PAPANTONIO: 4 Q. Do you see that, sir? 5 A. Yes, the second bullet says 6 that. 7 MR. PAPANTONIO: I'm trying 8 to speak up. 9 BY MR. PAPANTONIO: 10 Q. All right. And can you hear 11 me okay, Mr. Oriente? 12 A. Yes, I can. Thanks. 13 Q. So McKesson agreed to 14 implement a program designed to detect 15 and prevent diversion of controlled 16 substances. 17 Now, if I got it right, you 18 were supposed to already be doing that 19 prior to 2008, weren't you? Weren't 20 you -- 21 MS. HENN: Objection to 22 form. 23 MR. PAPANTONIO: Emily, 24 would you let me finish?</p>	<p style="text-align: right;">Page 80</p> <p>1 to detect and prevent diversion of 2 controlled substances long before 2008, 3 right? You know that? 4 A. We had a program prior to 5 2008. 6 Q. This says, "McKesson agreed 7 to implement a program designed to detect 8 and prevent diversion of controlled 9 substance." 10 That's what you agreed to in 11 2008, correct? 12 MS. HENN: Objection to 13 form. 14 THE WITNESS: It is in this 15 document. When you say "you 16 agreed to," it is not me, because 17 prior to this we had a manual 18 system, and we would look at 19 purchases, so we were always 20 looking at purchases. It was a 21 manual system. And I'm just 22 telling you. 23 And so it would be people 24 looking at reports to determine</p>
<p style="text-align: right;">Page 79</p> <p>1 MS. HENN: I refer to you as 2 counsel -- 3 MR. PAPANTONIO: Oh, 4 counsel. 5 MS. HENN: -- and I would 6 prefer that you refer to me -- 7 MR. PAPANTONIO: Okay. 8 However you want me to -- 9 MS. HENN: -- with respect, 10 not by my first name. 11 MR. PAPANTONIO: I'm sorry. 12 Tell me your last name. 13 MS. HENN: My last name is 14 Henn. But counsel will be -- 15 MR. PAPANTONIO: Henn. So 16 I'll call you Ms. Henn. Is that 17 okay? 18 MS. HENN: Yes. 19 MR. PAPANTONIO: All right, 20 Ms. Henn. 21 BY MR. PAPANTONIO: 22 Q. So let me be clear about 23 something. You know that you were 24 supposed to implement a program designed</p>	<p style="text-align: right;">Page 81</p> <p>1 amounts that customers were 2 buying. 3 Since 2008 there was an 4 automated system put in place that 5 would assist in that process. But 6 there was always a system in place 7 to detect and look at what was 8 being purchased. It wasn't like 9 it started in 2008. 10 BY MR. PAPANTONIO: 11 Q. Okay. So you're saying in 12 2008 you had a new and improved program 13 that was going to keep track of 14 suspicious orders. Is that your 15 testimony? It was new improved? 16 MS. HENN: Objection to 17 form. 18 THE WITNESS: I would say 19 it's not new. It was enhanced to 20 be a system-generated, allowed 21 things to be more efficiently 22 identified, allow us to review 23 more quickly. 24 BY MR. PAPANTONIO:</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. And your prior system was so 2 bad that the DEA and the Department of 3 Justice actually fined you \$13 million 4 because you were not reporting suspicious 5 orders, correct? 6 MS. HENN: Objection to 7 form. 8 THE WITNESS: I would not 9 say that it was a bad system. We 10 were fined for not reporting what 11 DEA deemed as suspicious orders. 12 BY MR. PAPANTONIO: 13 Q. Well, I mean, you weren't 14 doing your job? 15 MS. HENN: Counsel. 16 BY MR. PAPANTONIO: 17 Q. You were breaking the law, 18 correct? 19 MS. HENN: Mr. Oriente, did 20 you finish your last answer? 21 THE WITNESS: I was going to 22 add more, that the determination 23 of a suspicious order is when the 24 wholesaler has an order, they look</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Right. Let's go to the next 2 page. You see the next page, Page 8. It 3 says, "Failure to report timeline." 4 Now, do you see -- turn that 5 next page, Mr. Oriente. 6 MS. HENN: Are you referring 7 to Page 9, Counsel? 8 MR. PAPANTONIO: Page 9. It 9 says Page 9, yeah. 10 BY MR. PAPANTONIO: 11 Q. Okay. It says, "Failure to 12 report timeline." 13 Do you see that? 14 A. Yes. 15 Q. Now, had anybody prior to 16 you coming here today told you that the 17 DEA did an investigation on Landover, and 18 they made records and they made 19 presentations right in this document that 20 show how many times McKesson violated the 21 agreement of 2008 by not reporting 22 suspicious orders? Had anybody shared 23 any time talking to you about that? 24 MS. HENN: Objection to</p>
<p style="text-align: right;">Page 83</p> <p>1 at pattern of ordering, size, 2 frequency, quantity. And then a 3 determination, is that order 4 suspicious or not. 5 BY MR. PAPANTONIO: 6 Q. Okay. 7 A. If we don't report that 8 order as suspicious because we felt that 9 that particular customer has followed 10 that pattern of ordering previously, then 11 that may be why that order was not 12 reported. 13 Q. Well, we know this much. 14 Prior to 2008, that system that you just 15 described, it wasn't working, was it? 16 Because the DEA and the DOJ hit you for a 17 \$13 million fine for not reporting 18 suspicious orders. We know that much, 19 correct? 20 MS. HENN: Objection to 21 form. 22 THE WITNESS: That did occur 23 in 2008. 24 BY MR. PAPANTONIO:</p>	<p style="text-align: right;">Page 85</p> <p>1 form. 2 THE WITNESS: Could you 3 repeat the question? 4 BY MR. PAPANTONIO: 5 Q. Yeah, I'll be glad to. 6 Prior to coming here today -- you had -- 7 three weeks ago, you knew you were coming 8 here today, right? 9 A. Yes. 10 Q. Did anybody from McKesson -- 11 I'm not interested in what you said to 12 your lawyers. I'm interested in what 13 McKesson -- did anyone at McKesson sit 14 down with you and go over the list of 15 things that they did to violate the 2008 16 agreement where you were found -- your 17 company was found to have engaged in 18 unlawful contact -- conduct and fined 19 \$13 million? 20 MS. HENN: Objection to 21 form. 22 THE WITNESS: Since the 23 three weeks back or ever? 24 BY MR. PAPANTONIO:</p>

<p style="text-align: right;">Page 86</p> <p>1 Q. How about -- let's go with 2 ever, Mr. Oriente. Let's go with ever. 3 Did McKesson -- anybody from 4 McKesson sit down with you and say, 5 "Listen, we have an agreement. We paid 6 our \$13 million, and as of 2008 we now 7 have an agreement. And the agreement 8 says that we're supposed to do A, B, and 9 C." 10 Has anybody shared that 11 agreement with you? 12 MS. HENN: Objection to 13 form. 14 THE WITNESS: The -- what 15 was shared with me, was that we 16 would be sharing suspicious orders 17 on a more frequent basis. 18 BY MR. PAPANTONIO: 19 Q. All right. So in other 20 words, okay, if you didn't do that, if 21 you didn't follow that agreement, where 22 you were fined \$13 million, you would be 23 engaged in unlawful conduct, yes or no? 24 MS. HENN: Objection to</p>	<p style="text-align: right;">Page 88</p> <p>1 law, Mr. Oriente, yes or no? 2 MS. HENN: Objection to 3 form. 4 THE WITNESS: As the way 5 it's written, yes. 6 BY MR. PAPANTONIO: 7 Q. Okay. Let's go to the next 8 page. It's Page 10. It says, "Failure 9 to report timeline." 10 Do you see that? 11 And then the first thing it 12 has there, it says, "May 2nd, 2008, 13 settlement." 14 Do you see that? That's 15 what we've been talking about, 16 Mr. Oriente. Do you see that? 17 A. Yes, yes. 18 Q. And then it says, "On 19 July 15, 2011, the DEA requested a list 20 of McKesson's top 20 purchase" -- 21 "purchasers of oxycodone, oxymorphone, 22 hydrocodone, and alprazolam." 23 Do you see that? 24 A. Yes, that's here.</p>
<p style="text-align: right;">Page 87</p> <p>1 form. 2 THE WITNESS: Since the 2008 3 agreement, McKesson agreed to 4 report suspicious orders on a more 5 regular basis. 6 BY MR. PAPANTONIO: 7 Q. And if you didn't do that, 8 you would be engaged in unlawful conduct, 9 correct? 10 MS. HENN: Objection to 11 form. 12 THE WITNESS: That would be 13 correct. 14 BY MR. PAPANTONIO: 15 Q. You would be breaking the 16 law, just breaking the law; is that 17 correct? 18 MS. HENN: Objection to 19 form. 20 BY MR. PAPANTONIO: 21 Q. Yes? 22 A. We would be out of 23 compliance. 24 Q. You would be breaking the</p>	<p style="text-align: right;">Page 89</p> <p>1 Q. And then it says, "CSMP 2 files" -- they requested files for 3 Accokeek Drug Healthcare and Family Meds. 4 Do you see that? 5 A. Yes. 6 Q. And it says, "Purchase 7 history for Accokeek," right? 8 A. Yes. 9 Q. And tell me which one of 10 those -- those pharmacies you're familiar 11 with? 12 A. Both Accokeek and Family 13 Meds. 14 Q. How are you familiar with 15 them personally? 16 A. I made site visits to 17 Accokeek pharmacy and met with the 18 pharmacists. Part of our program for 19 controlled substance monitoring was to 20 make pharmacy visits, and so I had been 21 to Accokeek pharmacy. 22 Q. So you had -- you had direct 23 contract -- contact with Accokeek, right? 24 A. I did.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. And who else did you have 2 direct contact with?</p> <p>3 A. Family Meds, I believe, is 4 the same owner as Accokeek, if I recall.</p> <p>5 Q. Okay. All right. And it 6 says that the -- it says as of July 15, 7 2011, they requested a list of the top 20 8 purchases.</p> <p>9 And, sir, you would agree 10 that the reason that you report this kind 11 of information to the DEA of suspicious 12 orders is because they have -- you have 13 to be part of the policing in the -- in 14 the sale of narcotics. That's what a 15 distributor is. You have to be part of 16 the policing to keep narcotics running -- 17 you know, running in a way they are 18 supposed to run, correct?</p> <p>19 MS. HENN: Objection to 20 form.</p> <p>21 THE WITNESS: We are 22 responsible as a distributor to 23 have a program in place that would 24 monitor controlled substance</p>	<p style="text-align: right;">Page 92</p> <p>1 use of drugs, correct?</p> <p>2 MS. HENN: Objection to 3 form.</p> <p>4 THE WITNESS: In what case 5 are you referring to? In the case 6 of Accokeek?</p> <p>7 BY MR. PAPANTONIO:</p> <p>8 Q. No, no particular case. As 9 a broad statement, the reasons that you 10 were supposed to report suspicious orders 11 is because one thing you wanted to try to 12 prevent was the criminal use of drugs, 13 correct?</p> <p>14 A. If -- if we deemed an order 15 suspicious and -- and we would report it 16 to prevent diversion.</p> <p>17 Q. And that is criminal use of 18 drugs, correct? That's one diversion is 19 criminal use of drugs?</p> <p>20 A. For nonmedical purpose, yes.</p> <p>21 Q. And you clearly knew in 2011 22 that there was already, as you said, you 23 already understood there was an opioid 24 drug crisis in America, correct?</p>
<p style="text-align: right;">Page 91</p> <p>1 sales.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. In fact, you were actually 4 part of the policing of the drug sales, 5 correct? Your organization, McKesson, or 6 any distributor is part of that policing 7 process, aren't you?</p> <p>8 MS. HENN: Objection to 9 form.</p> <p>10 THE WITNESS: Part of our 11 requirement as a distributor and 12 registrant is to have a monitoring 13 program in place, yes.</p> <p>14 BY MR. PAPANTONIO:</p> <p>15 Q. And certainly, on July 15th, 16 2011, you were aware that there was also 17 a drug crisis that was taking place, an 18 opioid drug crisis taking place in 19 America. You knew that, didn't you?</p> <p>20 A. I knew that there was high 21 opioid problem, yes.</p> <p>22 Q. And you were supposed to 23 report this information because you 24 wanted to make sure there was no criminal</p>	<p style="text-align: right;">Page 93</p> <p>1 MS. HENN: Objection to 2 form.</p> <p>3 BY MR. PAPANTONIO:</p> <p>4 Q. You knew that?</p> <p>5 A. Yes.</p> <p>6 Q. And you knew that there was 7 actually -- that there was occurrences 8 that were even characterized as the oxy 9 express. Have you ever heard of the oxy 10 express?</p> <p>11 MS. HENN: Objection to 12 form.</p> <p>13 THE WITNESS: I have heard 14 of the oxy express. I believe 15 that was a problem in Florida 16 coming up the east coast.</p> <p>17 BY MR. PAPANTONIO:</p> <p>18 Q. Well, as a matter of fact, 19 it came up right into the area that you 20 were part of a distributor, right in your 21 part of the country. The oxy express 22 came right up to where you were a 23 distributor. So where -- excuse me, 24 where you were a regulator for the</p>

<p style="text-align: right;">Page 94</p> <p>1 distribution of McKesson narcotics. You 2 knew that, right? 3 MS. HENN: Objection to 4 form. 5 BY MR. PAPANTONIO: 6 Q. I'm going to -- let me 7 repeat the question, because I want to be 8 clear about this. 9 You knew in 2011 that the 10 oxy express ran right through the very 11 territory where you were working as a 12 regulator for the sale in regard to the 13 sale of narcotic drugs for McKesson. You 14 knew that, didn't you? 15 MS. HENN: Objection to 16 form. 17 THE WITNESS: I didn't know 18 that it was specifically at any 19 one pharmacy. I knew that it was 20 along the east coast. 21 BY MR. PAPANTONIO: 22 Q. You didn't know where it 23 ended? 24 MS. HENN: Objection to</p>	<p style="text-align: right;">Page 96</p> <p>1 unless there was a glut of opioids out in 2 the market? 3 A. I have not heard that 4 before, no. 5 Q. All right. Let's go to the 6 next page here. It says, "Failure to 7 report timeline. Between May 2008 and 8 July 15, 2011, McKesson did not submit a 9 single suspicious order." 10 Do you see that? 11 MR. PAPANTONIO: Could you 12 underline this for me, Evan? If 13 you don't mind, I want you to 14 underline between May 2008 and 15 July 15, 2011, McKesson did not 16 submit a single suspicious order. 17 BY MR. PAPANTONIO: 18 Q. Do you see that? 19 A. I see that. 20 Q. And you, sir, were working 21 as a regulator between 2008 and 22 July 2011. That was your job as a 23 regulator, right? 24 MS. HENN: Objection to</p>
<p style="text-align: right;">Page 95</p> <p>1 form. 2 THE WITNESS: From my 3 understanding it went all the way 4 up to Boston. 5 BY MR. PAPANTONIO: 6 Q. And you -- so it covered the 7 very territory -- some of the very 8 territory you worked, the oxy express? 9 MS. HENN: Objection to 10 form. 11 BY MR. PAPANTONIO: 12 Q. Right? 13 A. The oxycodone problem was 14 along the entire east coast. 15 Q. And the only way the oxy 16 express could work is there was a glut of 17 opioids out there -- for the oxy express 18 to work, there had to be extra drugs out 19 on the market, correct? 20 MS. HENN: Objection to 21 form. 22 BY MR. PAPANTONIO: 23 Q. Have you ever heard that, 24 that the oxy express could not operate</p>	<p style="text-align: right;">Page 97</p> <p>1 form. 2 THE WITNESS: Yes, that was 3 part of my job. 4 BY MR. PAPANTONIO: 5 Q. And you, sir -- so if we 6 read this right, you never were involved 7 in submitting one single suspicious order 8 to the DEA even after you had already 9 been fined -- McKesson had already been 10 fined \$13 million the first time, right? 11 A. In this time period from 12 2008 to 2011 -- 13 Q. We're talking almost four 14 years. 15 MS. HENN: Counsel. 16 BY MR. PAPANTONIO: 17 Q. I'm sorry. Go ahead. 18 A. In this time period between 19 2008 and 2011, I know that I had 20 customers that we stopped doing business 21 with. As far as the suspicious order 22 reporting, I don't recall the exact 23 number. Here it's saying that it did not 24 submit a single one.</p>

<p style="text-align: right;">Page 98</p> <p>1 Q. The exact number --</p> <p>2 MS. HENN: Counsel.</p> <p>3 BY MR. PAPANTONIO:</p> <p>4 Q. I'm sorry. Go ahead.</p> <p>5 A. But I do not recall the</p> <p>6 exact number that that would have been.</p> <p>7 I know that we had customers that we</p> <p>8 would stop doing business with. But as</p> <p>9 far as a single suspicious order, I'm not</p> <p>10 familiar with that.</p> <p>11 Q. Well, the number here, sir,</p> <p>12 there are no numbers.</p> <p>13 A. Right.</p> <p>14 Q. They're saying zero.</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Your company was fined</p> <p>17 \$13 million for breaking the law in 2008,</p> <p>18 right? And then your company, McKesson,</p> <p>19 agreed to say, oh, we're going to do</p> <p>20 better. Isn't that what you told me a</p> <p>21 few minutes ago? We're going to do</p> <p>22 better?</p> <p>23 MS. HENN: Objection to</p> <p>24 form.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q. McKesson, not you, but</p> <p>2 McKesson is breaking the law?</p> <p>3 A. If there were --</p> <p>4 MS. HENN: Objection to form</p> <p>5 go ahead.</p> <p>6 THE WITNESS: If there were</p> <p>7 suspicious orders during that</p> <p>8 period and we did not report them,</p> <p>9 then yes.</p> <p>10 BY MR. PAPANTONIO:</p> <p>11 Q. You're breaking the law.</p> <p>12 And the second thing is, if</p> <p>13 there were no suspicious orders at that</p> <p>14 time, you are absolutely violating your</p> <p>15 2008 agreement with the Department of</p> <p>16 Justice where you said you were going to</p> <p>17 build an enhanced program, right?</p> <p>18 MS. HENN: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: We did build</p> <p>21 that enhanced program.</p> <p>22 BY MR. PAPANTONIO:</p> <p>23 Q. I'm looking at the enhanced</p> <p>24 program. The enhanced program says that</p>
<p style="text-align: right;">Page 99</p> <p>1 THE WITNESS: What I -- what</p> <p>2 I said was we had enhanced the</p> <p>3 program to identify suspicious</p> <p>4 orders, yes.</p> <p>5 BY MR. PAPANTONIO:</p> <p>6 Q. So let me get this right.</p> <p>7 This is your enhanced program. Between</p> <p>8 2008 and 2011, your enhanced program</p> <p>9 reported zero suspicious orders. That's</p> <p>10 the enhanced program that you're talking</p> <p>11 about?</p> <p>12 A. The -- I can't say exactly</p> <p>13 what would have been suspicious between</p> <p>14 that time period because I don't -- I</p> <p>15 don't have that information. What --</p> <p>16 Q. This -- go ahead.</p> <p>17 A. But what I was going to say</p> <p>18 is that, according to this document,</p> <p>19 yeah, zero orders were reported.</p> <p>20 Q. Okay. And if zero orders</p> <p>21 are reported, A, you were breaking the</p> <p>22 law, correct?</p> <p>23 MS. HENN: Objection.</p> <p>24 BY MR. PAPANTONIO:</p>	<p style="text-align: right;">Page 101</p> <p>1 between 2008 and 2011, the enhanced</p> <p>2 program didn't report one suspicious</p> <p>3 order. Do you understand what I'm saying</p> <p>4 here, Mr. Oriente?</p> <p>5 MS. HENN: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: No orders were</p> <p>8 reported during that time period.</p> <p>9 BY MR. PAPANTONIO:</p> <p>10 Q. Gotcha.</p> <p>11 A. We were still monitoring and</p> <p>12 watching what purchases were being made.</p> <p>13 Q. Okay. Where is it -- you</p> <p>14 tell me anywhere, in everything that</p> <p>15 we've just reviewed so far, that it says</p> <p>16 that you can monitor and not report a</p> <p>17 suspicious order?</p> <p>18 MS. HENN: Objection.</p> <p>19 BY MR. PAPANTONIO:</p> <p>20 Q. You tell me where I'm</p> <p>21 supposed to find that law. I'll go to it</p> <p>22 right now. We'll talk about it. Where</p> <p>23 is the law that says all you have to do</p> <p>24 is monitor and not report suspicious</p>

<p style="text-align: right;">Page 102</p> <p>1 orders?</p> <p>2 MS. HENN: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: We have to --</p> <p>5 we have to report suspicious</p> <p>6 orders if identified as</p> <p>7 suspicious.</p> <p>8 BY MR. PAPANTONIO:</p> <p>9 Q. Right. Right. And you</p> <p>10 identified no suspicious orders between</p> <p>11 2008 and 2011 under your new, improved,</p> <p>12 enhanced program, correct? That's what</p> <p>13 this says, isn't it?</p> <p>14 MS. HENN: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: That's what</p> <p>17 this says.</p> <p>18 BY MR. PAPANTONIO:</p> <p>19 Q. Okay. And it says -- as a</p> <p>20 matter of fact, it says, in fact,</p> <p>21 McKesson did not submit a suspicious</p> <p>22 order until November of 2011.</p> <p>23 Do you see that?</p> <p>24 A. Yes, I see that.</p>	<p style="text-align: right;">Page 104</p> <p>1 THE WITNESS: No, it wasn't</p> <p>2 me. There was a phone beeping.</p> <p>3 BY MR. PAPANTONIO:</p> <p>4 Q. And then the next paragraph</p> <p>5 is -- is -- it says, "McKesson did not</p> <p>6 submit a suspicious order until November</p> <p>7 of 2011, but that was four months after</p> <p>8 the DEA requested the information,</p> <p>9 customer lists, and the files for</p> <p>10 Accokeek and Family Meds Incorporated,"</p> <p>11 right?</p> <p>12 MS. HENN: Objection to</p> <p>13 form.</p> <p>14 BY MR. PAPANTONIO:</p> <p>15 Q. That's what it says, right?</p> <p>16 A. That's what -- yeah, that's</p> <p>17 what --</p> <p>18 Q. All right.</p> <p>19 A. -- this bullet is saying,</p> <p>20 that they requested the 20 top customers</p> <p>21 and files for Accokeek and Family Meds.</p> <p>22 Q. All right, sir. As we go</p> <p>23 forward, I want to be very clear about</p> <p>24 something. It was not your -- what you</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. And then underneath it says,</p> <p>2 "Four months after DEA requested the top</p> <p>3 customer list and CSMP files for Accokeek</p> <p>4 and Family Meds."</p> <p>5 Do you see that? Take a</p> <p>6 minute and read -- take a minute and read</p> <p>7 that. I want you to get that in your</p> <p>8 head before I ask you questions about it.</p> <p>9 "Four months after DEA requested the top</p> <p>10 20 customer list and the CSMP files for</p> <p>11 Accokeek and Family Meds is the first</p> <p>12 time that McKesson submitted a suspicious</p> <p>13 order."</p> <p>14 Do you see that?</p> <p>15 A. Yes, I see that.</p> <p>16 Q. All right. So if I'm</p> <p>17 reading this right, four years -- I mean,</p> <p>18 between 2008 and 2011, there's no</p> <p>19 suspicious orders reported by McKesson,</p> <p>20 if we take that first paragraph, right?</p> <p>21 And then -- sir, did you</p> <p>22 want to say something?</p> <p>23 MS. HENN: That was the</p> <p>24 phone.</p>	<p style="text-align: right;">Page 105</p> <p>1 told me at the beginning of this</p> <p>2 deposition, that it was the lawyers for</p> <p>3 McKesson who was supposed to be reporting</p> <p>4 the suspicious orders. Is that what you</p> <p>5 told me?</p> <p>6 MS. HENN: Objection to</p> <p>7 form.</p> <p>8 THE WITNESS: No. What I</p> <p>9 said was when requests came in for</p> <p>10 customer files like for Accokeek</p> <p>11 and Family Meds, that request</p> <p>12 would go from me to our legal</p> <p>13 department for them to pull the</p> <p>14 reports to send to Accokeek and</p> <p>15 Family Meds.</p> <p>16 BY MR. PAPANTONIO:</p> <p>17 Q. So did you personally do any</p> <p>18 reporting of suspicious orders between</p> <p>19 2008 and 2011? Did you?</p> <p>20 A. I don't recall the exact</p> <p>21 amount that I would have done. I</p> <p>22 don't -- I don't remember how many</p> <p>23 customers I would have sent in to DEA,</p> <p>24 nor if I reported any orders. It's seven</p>

<p style="text-align: right;">Page 106</p> <p>1 to 10 years ago.</p> <p>2 Q. Well, I understand that.</p> <p>3 But, so we have to go -- the only</p> <p>4 document we have is the DEA investigation</p> <p>5 that says that between May 2008 and</p> <p>6 July 2011, McKesson did zero reports,</p> <p>7 correct?</p> <p>8 MS. HENN: Objection to</p> <p>9 form.</p> <p>10 BY MR. PAPANTONIO:</p> <p>11 Q. That's all we have to go by.</p> <p>12 MS. HENN: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: That's what is</p> <p>15 listed here, yes.</p> <p>16 BY MR. PAPANTONIO:</p> <p>17 Q. Yeah. And let's go to</p> <p>18 the -- let me ask you something. If this</p> <p>19 is true, if it's true that between 2008</p> <p>20 and 2011 that there were suspicious</p> <p>21 orders that were reported to McKesson,</p> <p>22 but McKesson did not report them to the</p> <p>23 DEA, that would be breaking the law,</p> <p>24 correct?</p>	<p style="text-align: right;">Page 108</p> <p>1 suspicious order, we report a</p> <p>2 suspicious order.</p> <p>3 BY MR. PAPANTONIO:</p> <p>4 Q. So according --</p> <p>5 A. If you don't identify a</p> <p>6 suspicious order, you don't report it.</p> <p>7 Q. Okay. Right. So according</p> <p>8 to Mr. Oriente, there were no suspicious</p> <p>9 orders that were identified between May</p> <p>10 2008 and July of 2011. According to</p> <p>11 Mr. Oriente, there were no suspicious</p> <p>12 orders identified by McKesson during that</p> <p>13 period of time; is that right?</p> <p>14 MS. HENN: Objection to</p> <p>15 form.</p> <p>16 THE WITNESS: What -- what I</p> <p>17 said was if we identified a</p> <p>18 suspicious order, we would report</p> <p>19 it. I can't say that one was</p> <p>20 identified and not reported</p> <p>21 because I do not know that.</p> <p>22 BY MR. PAPANTONIO:</p> <p>23 Q. Well, if we go by this</p> <p>24 document, which is an investigation that</p>
<p style="text-align: right;">Page 107</p> <p>1 MS. HENN: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: They would not</p> <p>4 have been reported to McKesson.</p> <p>5 McKesson would have identified</p> <p>6 them as suspicious.</p> <p>7 BY MR. PAPANTONIO:</p> <p>8 Q. Okay. Fine. If McKesson</p> <p>9 identified -- identified suspicious</p> <p>10 orders --</p> <p>11 A. Right.</p> <p>12 Q. -- and failed to report them</p> <p>13 to the DEA, that would be breaking the</p> <p>14 law, wouldn't it?</p> <p>15 A. If McKesson identified a</p> <p>16 suspicious order, McKesson would have</p> <p>17 reported a suspicious order.</p> <p>18 Q. You believe they would have</p> <p>19 reported. But this says they did not.</p> <p>20 MS. HENN: Objection to</p> <p>21 form.</p> <p>22 THE WITNESS: This says they</p> <p>23 didn't report any. So what I'm</p> <p>24 saying is, if we identified a</p>	<p style="text-align: right;">Page 109</p> <p>1 was done by the U.S. government,</p> <p>2 Department -- the DEA and the Department</p> <p>3 of Justice, if we go by this document, it</p> <p>4 says that under this enhanced program,</p> <p>5 that McKesson had in place, there were</p> <p>6 zero suspicious orders reported during</p> <p>7 that time between 2008 and 2011, right?</p> <p>8 MS. HENN: Objection to</p> <p>9 form.</p> <p>10 BY MR. PAPANTONIO:</p> <p>11 Q. If we go by this document.</p> <p>12 A. That's what -- yes.</p> <p>13 Q. Do you have any reason to</p> <p>14 believe --</p> <p>15 MS. HENN: Can you let the</p> <p>16 witness finish his answers?</p> <p>17 MR. PAPANTONIO: Yeah. I'm</p> <p>18 sorry.</p> <p>19 THE WITNESS: I was going to</p> <p>20 say, that's what the document has</p> <p>21 listed here, that there were none</p> <p>22 reported between May of 2008 and</p> <p>23 July 15th of 2011.</p> <p>24 BY MR. PAPANTONIO:</p>

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1 Q. Do you have any independent
2 knowledge, sir, about the DEA taking it
3 on themselves to phony -- phony up
4 information and lie about what we're
5 reporting right here?
6 MS. HENN: Objection to
7 form.
8 THE WITNESS: No, I would
9 not believe that.
10 BY MR. PAPANTONIO:
11 Q. I wouldn't believe -- no,
12 that's what I'm -- I want to make sure
13 you're not taking the position that what
14 the DEA is representing here, that there
15 were zero suspicious orders between 2008
16 and 2011. You're not taking the position
17 that the DEA in any way lied about that,
18 right?
19 A. No, absolutely not.
20 Q. All right. That's good.
21 MS. HENN: Counsel, there
22 have been additional beeps.
23 You've heard them. Can we ask
24 anyone on the phone who's not yet

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1 noted their appearance and is
2 listening in to please do so now.
3 Is there anyone on the phone
4 who has not yet noted their
5 appearance?
6 MR. PAPANTONIO: All right.
7 THE WITNESS: Must not be.
8 MR. PAPANTONIO: I guess
9 not.
10 BY MR. PAPANTONIO:
11 Q. Let's go to the next page,
12 Page 12. Just turn one page over there
13 if you would, Mr. Oriente.
14 It continues. The headline
15 on this DEA report, Department of Justice
16 report, is, "Failure to Report Timeline."
17 And we're talking about McKesson; is that
18 correct? Right. The cover on this is --
19 is "In the Matter of McKesson
20 Corporation," right?
21 A. Yes.
22 Q. And this says, "Failure to
23 report timeline." And the first -- the
24 very first thing we see there is on

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1 October 25th, 2011, the DEA requested the
2 CSMP files for ten additional McKesson
3 customers, including Drug City, Judy's
4 Drug Store, and Herndon Pharmacy.
5 Now, first of all, tell the
6 jury what is -- at this point, they've
7 probably heard this already, but tell
8 them what a CSMP is?
9 A. CSMP is an acronym for
10 controlled substance monitoring program.
11 Q. And that was your
12 responsibility to run a controlled
13 substance monitoring program at McKesson,
14 right?
15 A. I used the controlled
16 substance monitoring program, yes. It
17 was a corporatewide program that was used
18 by myself to review customers of their
19 controlled purchases.
20 Q. Is that the same controlled
21 substance program that failed to report a
22 single suspicious order between 2008 and
23 2011? Is that the same suspicious -- is
24 that the same CSMP we're talking about

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1 here?
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: There was one
5 CSMP. There was one program.
6 BY MR. PAPANTONIO:
7 Q. All right. So the CSMP is
8 the same one that we're talking about
9 that failed to report even one suspicious
10 order for three and a half years, right?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: That would be
14 the same program.
15 BY MR. PAPANTONIO:
16 Q. Then it goes on to say --
17 now, I want to ask you. Which one of
18 these -- Drug City, Judy's Drug, and
19 Herndon Pharmacy, which one of those did
20 you have personal involvement with?
21 A. I was responsible for all
22 three customers. I made site visits to
23 Drug City. And I also made site visits
24 to Herndon Pharmacy. Herndon Pharmacy

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1 was actually one of the customers that I
 2 turned off and reported to DEA.
 3 Q. Right. We're going to talk
 4 about that in just a minute. So you
 5 actually -- you actually were hands-on
 6 with these drug stores, right, these
 7 pharmacies?
 8 A. The Drug City and Herndon I
 9 made actual physical site visits to. I
 10 don't recall visiting Judy's, no.
 11 Q. Okay. And the next line
 12 is -- it says, "On November 8, 2011,
 13 McKesson ceased shipping controlled
 14 substances to Herndon Pharmacy."
 15 Do you see that?
 16 A. Yes, sir.
 17 Q. Now, that's 2011. And
 18 that's less than one month after the DEA
 19 requested the CSMP file. Do you
 20 remember? They requested the file. And
 21 then right after they requested the file,
 22 you say that you cut-off Herndon after --
 23 after that request; is that right?
 24 MS. HENN: Objection to

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1 form.
 2 THE WITNESS: I turned off
 3 Herndon Pharmacy as I was doing my
 4 due diligence and research on that
 5 particular customer.
 6 BY MR. PAPANTONIO:
 7 Q. And so is it just a
 8 coincidence that one month after the DEA
 9 requested the CSMP files on Herndon
 10 Drugs, you made the determination, less
 11 than one month after that, that you were
 12 going to terminate them? Is that
 13 coincidence?
 14 MS. HENN: Objection to
 15 form.
 16 THE WITNESS: My decision
 17 had nothing to do with the DEA
 18 request for top customers. What I
 19 would have been looking at is how
 20 much Herndon Pharmacy had
 21 purchased, their percentage of
 22 controls to RX, what type of
 23 controls were they purchasing,
 24 what doctors the pharmacy was

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1 filling prescriptions for.
 2 I remember this one very
 3 intimately because the doctor was
 4 Dr. Salerian in Washington D.C.,
 5 And he was a psychiatrist, and he
 6 was writing prescriptions for
 7 oxycodone.
 8 And when I visited Herndon
 9 Pharmacy, Herndon Pharmacy
 10 would -- we would get pharmacy
 11 information from the pharmacy to
 12 see how many doctors they were
 13 filling for and a percent of a
 14 certain doctor. And that one
 15 doctor was greater than 80 percent
 16 of his oxycodone business.
 17 And the distance from the
 18 doctor's office all the way out to
 19 Herndon Pharmacy in Herndon,
 20 Virginia was, I think, greater
 21 than 25 miles. And between the
 22 distance and the fact that one
 23 doctor was greater than 80 percent
 24 of the oxycodone, I made a

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1 decision that -- to cease selling
 2 controlled substances to Herndon.
 3 BY MR. PAPANTONIO:
 4 Q. Right.
 5 A. Herndon Pharmacy then
 6 brought a lawsuit against McKesson
 7 because I did terminate selling controls
 8 to him.
 9 Q. And you terminated them one
 10 month --
 11 A. That --
 12 Q. Wait a second.
 13 You terminated them less
 14 than one month after the DEA in 2011
 15 said, "We want the records on Herndon."
 16 That's a correct statement, isn't it?
 17 A. I would not have known that
 18 Herndon was one that was sent in to DEA.
 19 Q. Well, so it's purely
 20 coincidental? Is that what we're saying
 21 here?
 22 A. Herndon was one of my top
 23 customers that I was looking at. The
 24 fact that they were also on the list to

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1 DEA was not my -- you know, did not make
2 my decision based off of what I found in
3 doing my due diligence of the doctor, the
4 distance, the type of controls that he
5 was purchasing for me to make the
6 decision to recommend turning him off.
7 Q. Okay. But between 2008 and
8 2011, that's the first time that you ever
9 did that, isn't it?
10 MS. HENN: Objection to
11 form.
12 BY MR. PAPANTONIO:
13 Q. It's the first time that you
14 closed a pharmacy down between 2008 and
15 2011, right?
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: It may have
19 been in Landover.
20 BY MR. PAPANTONIO:
21 Q. Yeah.
22 A. But I'm not aware. I would
23 have to go and see what other customers I
24 had between '8 and '11 at other

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1 distribution centers that may have been
2 turned off.
3 Q. So between 2008 and 2011,
4 Mr. Oriente, that's you, reports no
5 suspicious orders, closes no pharmacies
6 down. And then, after the DEA in
7 October 2011 says, "Hey, we want the
8 files on Herndon drugs," that's when you
9 close them down, one month later?
10 MS. HENN: Objection to
11 form.
12 BY MR. PAPANTONIO:
13 Q. Is that -- is that right?
14 MS. HENN: Objection to
15 form.
16 THE WITNESS: It would have
17 been more than one month that I
18 was looking at Herndon Pharmacy.
19 So I would have been looking at
20 Herndon Pharmacy prior to the DEA
21 requesting their top -- or
22 McKesson's top customers. So...
23 BY MR. PAPANTONIO:
24 Q. So you had -- so in other

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1 words, you -- there were things that
2 Herndon was doing that was suspicious to
3 you; is that correct? Long before they
4 were closed down; is that your testimony?
5 MS. HENN: Objection to
6 form.
7 THE WITNESS: We look at all
8 customers. And I would have been
9 looking at Herndon as one of my
10 customers. And then once I made
11 the determination that it was
12 suspicious, we turned them off.
13 BY MR. PAPANTONIO:
14 Q. How many years were you
15 doing business with Herndon before you
16 simply turn them off after the DEA asked
17 for their files? How many years have you
18 been doing business?
19 A. I do not know when Herndon
20 Pharmacy exactly started with McKesson.
21 I don't know --
22 Q. Were they -- go ahead.
23 A. It could have been a newer
24 pharmacy. It may have been a year. I do

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1 not know that, when Herndon started with
2 McKesson.
3 Q. You don't -- you don't know
4 that Herndon Pharmacy was there with
5 Landover the entire time that Landover
6 was in operation. That's what your
7 testimony is?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: I don't know
11 when Herndon Pharmacy opened with
12 McKesson as a customer. Yeah, I
13 don't have that date in my head.
14 BY MR. PAPANTONIO:
15 Q. All right. So just to be
16 clear, prior to the time that the DEA
17 says, "Give us the files on Herndon
18 Pharmacy," you had, first of all, never
19 reported a suspicious order on Herndon;
20 B, you determined that you would close
21 them down one month after the DEA
22 requested their files; is that correct?
23 MS. HENN: Objection to
24 form.

<p style="text-align: right;">Page 122</p> <p>1 THE WITNESS: As I said, my 2 investigation of Herndon Pharmacy 3 would not have been done in four 4 weeks. It would have been ongoing 5 before the DEA asked for the list 6 of top 20 customers. 7 So during my research of 8 Herndon which included site 9 visits, going past where the 10 doctor was located, seeing the 11 distance from the doctor to the 12 pharmacy, looking at their percent 13 of controlled substances that they 14 were purchasing -- excuse me -- 15 purchasing, that would have taken 16 time. 17 And then when I received the 18 information that I had, made my 19 report, I requested and submitted 20 saying that we should terminate 21 Herndon Pharmacy as a customer. 22 Now the fact that they were 23 happening simultaneously, that 24 again did not weigh in on my</p>	<p style="text-align: right;">Page 124</p> <p>1 customer of interest because of 2 their volume. They were a 3 customer of interest because of 4 their volume. So they were one of 5 the customers that I was 6 researching. 7 We have thousands of 8 customers. And so I was 9 researching Herndon, doing my due 10 diligence to determine if they 11 were a suspicious customer. And 12 as my research determined, I felt 13 they were, and, therefore, we 14 terminated business. 15 BY MR. PAPANTONIO: 16 Q. So you had been doing 17 business with them for, you don't know 18 how many years before you terminated 19 them? 20 A. That is correct. I know 21 they were a newer pharmacy and had opened 22 recently, I don't know the exact time 23 that they did business with McKesson. 24 Q. And you were -- you're</p>
<p style="text-align: right;">Page 123</p> <p>1 decision to review Herndon. 2 I looked at our top 3 customers. So if our top 4 customers and DEA asked for that 5 top customer list, basically 6 equated to the same list of 7 customers, that makes sense 8 because we're looking at the same 9 top purchasing customers. Once it 10 was determined that Herndon was a 11 risk, I terminated them. 12 BY MR. PAPANTONIO: 13 Q. Well, the truth is, you were 14 suspicious of Herndon -- what you're 15 telling me is that you were suspicious of 16 Herndon prior to the time that the DEA 17 sent you a letter saying send us the 18 files? You were suspicious of them 19 already, right? 20 MS. HENN: Objection to 21 form. 22 THE WITNESS: I wouldn't say 23 that I was suspicious. They were 24 one that was identified as a</p>	<p style="text-align: right;">Page 125</p> <p>1 saying that you were running some kind of 2 private investigation? I mean you were 3 investigating them on your own? 4 A. Yeah. I wouldn't say it was 5 a private investigation. 6 I mean, part of the 7 controlled substance monitoring program 8 that McKesson had was to know our 9 customer and do a site visit, talk with 10 the pharmacy, understand their business, 11 look for any signs such as, you know, 12 lines that may be outside the pharmacy, 13 look for any activity at a pharmacy that 14 doesn't look quite right. 15 Also go by a doctor's 16 office, see if there's a line of people 17 standing outside the doctor's office. 18 Are the license plate of cars driving up, 19 are they from within the state, or are 20 they from out of state. Those are the 21 type of things we looked for. 22 Q. Right. As a matter of fact, 23 sir, you actually had salespeople on the 24 ground working in different areas of the</p>

<p style="text-align: right;">Page 126</p> <p>1 country that lived right in the very city 2 where there were pill mills, right? You 3 had McKesson employees -- if a city had a 4 pill mill, they lived right in that city, 5 didn't they? 6 MS. HENN: Objection to 7 form. 8 THE WITNESS: I'm unaware of 9 where McKesson employees live. 10 I -- you know, we have people that 11 live all over the country. 12 BY MR. PAPANTONIO: 13 Q. Right. 14 A. So specifically to where 15 they live, I do not know. 16 Q. So but if you had an 17 employee that lived next to a pill mill 18 and they saw people lined up around the 19 pill mill at 8 o'clock in the morning, 20 that's something that you would want to 21 know as a regulatory guy, right? 22 A. Yes, I would -- I would want 23 to know that information. And 24 salespeople would call me from time to</p>	<p style="text-align: right;">Page 128</p> <p>1 ten-minute break. 2 MR. PAPANTONIO: Sure. 3 MS. HENN: Thank you. 4 THE VIDEOGRAPHER: Off the 5 record, right? All right. Stand 6 by, please. The time is 7 10:20 a.m. Going off the record. 8 (Short break.) 9 THE VIDEOGRAPHER: We are 10 back on the record. The time is 11 10:32 a.m. 12 BY MR. PAPANTONIO: 13 Q. All right. Sir, to continue 14 where we are, go to the page that's 15 marked -- go to the page that's marked 16 13. I want to ask you, as you're looking 17 at that. Now, I -- so one thing I'm not 18 clear about that you said prior to this 19 break was that you did an investigation 20 and you shut down Herndon; is that right? 21 A. Yeah. 22 Q. You did that, right? 23 A. Yeah. It was my 24 recommendation.</p>
<p style="text-align: right;">Page 127</p> <p>1 time and tell me that, you know, they 2 were either at a -- at a pharmacy. So 3 there was some correspondence between 4 salespeople and myself if they saw 5 something and wanted to alert me to. 6 Q. And how many -- tell me how 7 many pharmacies you closed down besides 8 Herndon? 9 MS. HENN: Objection to 10 form. 11 THE WITNESS: I don't know 12 off the top of my head. I would 13 have to go back to records. 14 BY MR. PAPANTONIO: 15 Q. More than three? 16 A. Oh, yes. 17 Q. Okay. You have records that 18 show that, right? 19 A. Yes. 20 MS. HENN: Counsel, we've 21 been going over an hour. I've 22 been waiting for a break. But I 23 haven't really come to a natural 24 one. I'd like to take a</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. When you did that, did you 2 report suspicious orders to the DEA? 3 A. We reported the closing of 4 Herndon Pharmacy to DEA. 5 Q. Did you report suspicious 6 orders to the DEA when you shut Herndon 7 down, yes or no? 8 A. We -- I would say that that 9 was the same thing. We reported 10 suspicious activity and that we closed 11 Herndon Pharmacy. 12 Q. No, sir. It's not the same 13 thing. 14 You -- for the record, I 15 want to be very clear. When you decided 16 to shut down Herndon, you did not even 17 report suspicious orders to the DEA when 18 you did that, did you? 19 MS. HENN: Objection to 20 form. 21 BY MR. PAPANTONIO: 22 Q. Right? 23 A. I'm not familiar with 24 reporting suspicious orders versus we're</p>

<p style="text-align: right;">Page 130</p> <p>1 closing a customer because of activity 2 that we don't feel -- 3 Q. Sir, you understand -- 4 MS. HENN: Sir, please let 5 him finish his answer. 6 BY MR. PAPANTONIO: 7 Q. Were you finished? 8 A. I wasn't. 9 Q. Go ahead. Finish your 10 answer. 11 MS. HENN: Thank you, sir. 12 THE WITNESS: We closed the 13 pharmacy because -- I don't 14 remember the exact letter that was 15 sent to DEA. I know there was a 16 letter sent to DEA -- in the local 17 DEA, that oversaw the Landover DC, 18 saying that we were closing 19 Herndon Pharmacy. 20 BY MR. PAPANTONIO: 21 Q. Okay. So you closed them 22 down. You saw clearly there were 23 suspicious orders before you closed them 24 down, correct? Right?</p>	<p style="text-align: right;">Page 132</p> <p>1 Pharmacy," and sent a follow-up letter to 2 DEA saying we're closing them. 3 Q. Did you report the 4 suspicious orders in the letter that you 5 sent, yes or no? 6 A. The specific orders? 7 Q. Yes. Suspicious orders, did 8 you report them when you closed down 9 Herndon? 10 A. We reported the customer. 11 We reported the customer as being 12 suspicious. 13 Q. Where is it that you get the 14 right to report a customer? Where does 15 that come from? There's nothing in the 16 statute that says all you have to do is 17 report a customer. If it's there, please 18 show it to me. 19 MS. HENN: Objection to 20 form. 21 BY MR. PAPANTONIO: 22 Q. Please show me in the U.S. 23 21 statute anywhere where it says, "Hey, 24 all you have to do is report a suspicious</p>
<p style="text-align: right;">Page 131</p> <p>1 A. Suspicious activity with the 2 doctors and the distance. 3 Q. And you did not report that 4 to the DEA, yes or no, Mr. Oriente? Very 5 simple? When you saw suspicious 6 orders -- you want to call it suspicious 7 activity -- you did not report that to 8 the DEA? 9 A. We -- 10 MS. HENN: Objection. 11 BY MR. PAPANTONIO: 12 Q. You just said we shut them 13 down? 14 MS. HENN: Objection to 15 form. 16 THE WITNESS: We reported 17 when we closed them. 18 BY MR. PAPANTONIO: 19 Q. Oh. You -- after you closed 20 them is when you reported them to the 21 DEA? Is that what you're telling us? 22 A. At the same time. We closed 23 them and sent the letter. We called the 24 DEA and said, "We're a closing Herndon</p>	<p style="text-align: right;">Page 133</p> <p>1 customer. You don't have to report 2 suspicious orders." How about showing 3 that to me, so we can proceed with that. 4 MS. HENN: Objection to 5 form. 6 THE WITNESS: I don't see it 7 in the document anywhere. 8 BY MR. PAPANTONIO: 9 Q. It's not there? 10 A. So it's not there. 11 Q. Yeah, it's not there. You 12 just made that up just now, didn't you? 13 A. No, I didn't make it up. We 14 reported a suspicious customer to DEA. 15 Q. But you did not report 16 suspicious orders to the DEA; is that 17 correct? 18 MS. HENN: Objection to 19 form. 20 BY MR. PAPANTONIO: 21 Q. Right? You did not? 22 A. Not specific orders. 23 Q. And you understand that the 24 DEA was not -- the DEA was investigating</p>

<p style="text-align: right;">Page 134</p> <p>1 you, McKesson, not, Herndon. You 2 understand that, right? This thing that 3 we're covering right now is where the DEA 4 was trying to determine whether or not 5 your company engaged in unlawful conduct 6 by selling narcotics in the United 7 States. Yes or no, do you know that? 8 MS. HENN: Objection to 9 form. 10 THE WITNESS: When the DEA 11 asked for the list of top 20 12 customers and asked for specific 13 records on certain pharmacies, I 14 was not aware that we were being 15 investigated, no. 16 BY MR. PAPANTONIO: 17 Q. Okay. So, but you 18 understand, sir, that if your company -- 19 let's take Herndon out of it. This is 20 not about the Herndon Pharmacy, sir. 21 This investigation is about your company, 22 your CEO, you, Michael Oriente. This is 23 about you. It's not about Herndon, 24 right?</p>	<p style="text-align: right;">Page 136</p> <p>1 controlled substances that that 2 one doctor was writing at that 3 pharmacy, my interview with the 4 pharmacist, then owner, that 5 activity was suspicious. 6 Any one order may not have 7 been deemed suspicious, but the 8 total activity at the pharmacy, 9 when taking all those variables 10 into account, that's what made it 11 a suspicious activity pharmacy. 12 BY MR. PAPANTONIO: 13 Q. Let's explore that a little 14 further. 15 Where's my -- where's my 16 video here? 17 Let's go to the next page. 18 13 -- it's Page 13. And we'll -- I want 19 to explore what you just said. 20 Because you just said that 21 all you had a responsibility to do was to 22 report suspicious activity, didn't you? 23 MS. HENN: Objection to 24 form.</p>
<p style="text-align: right;">Page 135</p> <p>1 MS. HENN: Objection to 2 form. 3 BY MR. PAPANTONIO: 4 Q. Correct? 5 MS. HENN: Objection to 6 form. 7 THE WITNESS: Yes. 8 BY MR. PAPANTONIO: 9 Q. And the information that you 10 didn't give to the -- to the DEA, we know 11 that you didn't give them suspicious 12 orders for sales that you had been 13 performing with Herndon for how many 14 years? 15 MS. HENN: Objection to 16 form. 17 THE WITNESS: Again, I said 18 I don't know how long Herndon was 19 a customer of McKesson. But if 20 the orders going into Herndon were 21 not deemed suspicious, but the 22 activity of the distance of the 23 doctor, the type of practice the 24 doctor was, the percentage of</p>	<p style="text-align: right;">Page 137</p> <p>1 THE WITNESS: No, I didn't 2 say that. I didn't say that. 3 What I said was the variable 4 elements that made up my due 5 diligence of distance from the 6 pharmacy to the -- doctor to the 7 pharmacy, the amount that that one 8 doctor was writing, the fact that 9 when I talked to the PIC owner, 10 PIC being pharmacist in charge and 11 owner, that when he requested an 12 increase, a threshold increase, he 13 did not mention Dr. Salerian at 14 all, which was the top prescribing 15 doctor that he was filling for. 16 So he mentioned two or three other 17 doctors in the area that were not, 18 you know, high amount of 19 prescriptions. 20 The leading doctor that he 21 was filling for, he never 22 mentioned to me. So his activity 23 is what made me deem him 24 suspicious, not necessarily one</p>

<p style="text-align: right;">Page 138</p> <p>1 order that he placed. 2 BY MR. PAPANTONIO: 3 Q. But you'd agree that he did 4 place suspicious orders? 5 A. No, I wouldn't agree with 6 that. 7 Q. All right. Well, let's go 8 to -- let's see. There's more in this 9 document that tells us about Herndon. 10 A. Yeah. Yeah. 11 Q. Let's take a look at it. 12 A. All right. 13 Q. Okay. Go to the next page. 14 A. Is that 13? 15 Q. Yep. Do you see where it 16 says, "Failure to report timeline"? 17 A. Yes. 18 Q. And the failure to report is 19 McKesson company, isn't it? We're 20 talking about McKesson failure to report? 21 A. Yes, yes. 22 Q. We're not talking about 23 Herndon's failure to report, right? 24 A. No.</p>	<p style="text-align: right;">Page 140</p> <p>1 sudden, between 2008 and 2011 there is 2 absolutely zero reporting about 3 suspicious orders or suspicious customers 4 or suspicious anything, right? 5 MS. HENN: Objection to 6 form. 7 BY MR. PAPANTONIO: 8 Q. Right? 9 A. That is what this document 10 has. And what I was thinking, where you 11 had here that we did not submit a single 12 suspicious order from '8 to '11. 13 Q. Right. 14 A. Was that to DEA headquarters 15 or to the field offices? 16 Q. Well, you have to tell me, 17 sir. You're the one in charge of 18 regulatory. This is an -- this is an 19 investigation done by the DEA, and they 20 said between those years, there's no 21 record that you -- that you reported any 22 suspicious orders. 23 A. Because when we were out in 24 the -- in the field, we had</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. This is about a criminal -- 2 this is -- excuse me. This is about a 3 DOJ investigation into McKesson, right? 4 A. That is what this document 5 would appear, yes. 6 Q. And it says, "On January 13, 7 2012, McKesson discontinued Accokeek." 8 All right. Do you see that? 9 A. Yeah, Accokeek. 10 Q. Accokeek. "On that same 11 date, McKesson discontinued Family Meds." 12 Do you see that? 13 A. Right. As I stated, I 14 believe they were the same owner. 15 Q. And then it says, "On 16 January 19, 2012, McKesson submitted SORs 17 for these two pharmacies a week before 18 scheduling a meeting at DEA." 19 Do you see that? 20 MS. HENN: Objection to 21 form. 22 THE WITNESS: Mm-hmm. 23 BY MR. PAPANTONIO: 24 Q. All right. So all of the</p>	<p style="text-align: right;">Page 141</p> <p>1 correspondence with DEA offices that are 2 out overseeing our distribution centers. 3 So I'm trying to understand, 4 in that statement where nothing was sent 5 into DEA, does that include the field 6 offices and the headquarters or just 7 headquarters? 8 Q. Sir, this document speaks 9 for itself. This document says that your 10 company failed to do any suspicious order 11 reporting for four years. That speaks 12 for itself. Okay. 13 MS. HENN: Objection to 14 form. 15 BY MR. PAPANTONIO: 16 Q. Let's go to the next page. 17 The next page is -- it is -- 18 we are on 13. It says on January 13th -- 19 on January 13 -- 20 MS. HENN: Counsel can we 21 pause for a second until the 22 disruption is over. 23 (Brief interruption.) 24 BY MR. PAPANTONIO:</p>

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1 Q. "On January 13, 2012,
2 McKesson discontinued sales to Accokeek."
3 Do you see that?
4 A. Yes.
5 Q. And it before then had --
6 had done no reporting about suspicious
7 orders to the DEA, right?
8 MS. HENN: Objection to
9 form.
10 BY MR. PAPANTONIO:
11 Q. Right?
12 MS. HENN: Objection to
13 form.
14 THE WITNESS: I would say
15 that based off of the document,
16 that is correct.
17 BY MR. PAPANTONIO:
18 Q. And then it says on the same
19 date, McKesson discontinued sales to the
20 Family Meds, right?
21 A. That is what it states, yes.
22 Q. And up to that point, there
23 was no reporting by McKesson about any
24 suspicious orders before you discontinued

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1 selling to these two pharmacies, correct?
2 MS. HENN: Objection to
3 form.
4 BY MR. PAPANTONIO:
5 Q. Yes?
6 A. Since this listed the
7 July 15, 2011, and we closed them on
8 January 13, 2012, I don't know what
9 occurred between July 15, 2011, and
10 January 13, 2012.
11 Q. But after you got the letter
12 from the DEA saying that we want the
13 records on ten pharmacies, that is when
14 you discontinued selling to Accokeek.
15 That is when you discontinued selling to
16 Family Meds, correct? After you got the
17 letter --
18 A. I can't --
19 MS. HENN: Objection.
20 BY MR. PAPANTONIO:
21 Q. After you got the letter
22 from the -- let me ask the question
23 again. After you got the letter --
24 A. Go ahead.

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1 Q. After you got the letter
2 from the DEA requesting files, that they
3 wanted to investigate for ten additional
4 McKesson customers including Drug City,
5 including Judy's Drug, including Herndon
6 and Accokeek, until you got that letter,
7 you were doing business with these folks,
8 weren't you?
9 MS. HENN: Objection to
10 form.
11 THE WITNESS: As I stated,
12 simultaneously, my review of these
13 customers would have been ongoing.
14 So the fact that I'm reviewing the
15 same customers that the DEA has
16 asked who our top ten are, shows
17 that I was reviewing our top
18 customers.
19 BY MR. PAPANTONIO:
20 Q. And it's just a coincidence
21 that you dropped them after the DEA
22 started their investigation? Is that
23 coincidence?
24 MS. HENN: Objection to

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1 form.
2 THE WITNESS: I was not
3 aware that they had started the
4 investigation.
5 BY MR. PAPANTONIO:
6 Q. Your legal department -- you
7 say you sent this information, all --
8 your legal department made decisions
9 about contact between McKesson and the
10 DEA in regard to suspicious orders?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: The legal
14 department would have sent in to
15 DEA any request for information on
16 customers.
17 BY MR. PAPANTONIO:
18 Q. Okay. So we have this
19 timewise, the investigation starts by the
20 DEA. You say you did not know about an
21 investigation. And immediately, within
22 one month after the investigation starts,
23 you start discontinuing business to
24 customers, right?

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1 MS. HENN: Objection to
2 form.
3 THE WITNESS: These
4 customers, Accokeek, Family Meds,
5 Herndon, would have been customers
6 that I would have been reviewing
7 for weeks and months.
8 BY MR. PAPANTONIO:
9 Q. Okay. And tell me how
10 many -- while you were reviewing them for
11 weeks and months, tell me how many times
12 you reported to the DEA that there were
13 suspicious orders taking place. Since
14 you have such a great memory of this, you
15 tell me how many times you reported
16 suspicious orders between -- with
17 these -- with these particular -- with
18 these particular pharmacies?
19 A. I never said --
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: I never said
23 that I had a great memory. So
24 what I'm going to tell you is I

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1 don't recall how many orders,
2 suspicious orders, were reported.
3 And I don't recall exactly
4 how many customers were turned
5 off. I know I ceased business
6 with several customers because of
7 suspicious activity that we deemed
8 this customer was doing. And so
9 we did not want to continue
10 selling controls to.
11 BY MR. PAPANTONIO:
12 Q. All right. So at this
13 point, it's either that you just happened
14 to be investigating them at the same time
15 the DEA was, and that's just a
16 coincidence. Is that -- is that your --
17 is that your testimony here today?
18 That's a coincidence?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: My -- my
22 statement is that we are looking
23 at the same customers. We're
24 looking at the top purchases.

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1 BY MR. PAPANTONIO:
2 Q. Right.
3 A. So, yeah, we would have been
4 reviewing the same customers.
5 Q. Yeah. And you start
6 dropping them, and you start closing down
7 your business with them after you get a
8 letter from the DEA saying, "Let me see
9 their files." That's when that starts
10 happening, right?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: DEA would have
14 had the ARCOS records to see all
15 along --
16 BY MR. PAPANTONIO:
17 Q. Right.
18 A. -- that they were high
19 purchasers.
20 Q. And you did too?
21 A. Right. And that's why I was
22 reviewing them.
23 Q. Right. And when they asked
24 for your files to find out whether you

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1 had actually done any reporting of
2 suspicious orders, they found that you
3 did no reporting, right?
4 MS. HENN: Objection to
5 form.
6 THE WITNESS: I wouldn't
7 know what they found.
8 BY MR. PAPANTONIO:
9 Q. Yeah. Well, let's talk
10 about what they found. Let's go to the
11 next page.
12 MS. HENN: Counsel, just one
13 thing.
14 For those on the phone,
15 we're getting a fair amount of
16 noise. And we would appreciate it
17 if you could all make sure that
18 you're on mute. Thank you.
19 BY MR. PAPANTONIO:
20 Q. "On February 24, 2012,
21 McKesson produced" --
22 A. Wait, wait. What page?
23 Q. I'm on Page 14. Actually,
24 it's 15. If you look down in the bottom

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1 corner, 15.
2 A. Right, right. That's why I
3 asked.
4 Q. "On February 24th, McKesson
5 produced a summary of the SOR that were
6 ostensibly submitted to the DEA. Five of
7 the pharmacies included in the summary
8 were customers of McKesson Landover."
9 Do you see that?
10 A. Yes.
11 Q. And that's where you did
12 business. That's the plan that you ran.
13 MS. HENN: Objection to
14 form.
15 BY MR. PAPANTONIO:
16 Q. Right?
17 A. I didn't -- I didn't --
18 Q. Not ran, but --
19 A. Right. I oversaw their --
20 Q. Regulatory.
21 A. -- controlled substance.
22 MS. HENN: And I'm just
23 going to note, there's a lot of
24 talking over each other, which

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1 makes the court reporter's job
2 really difficult.
3 So I'm going to ask that you
4 allow counsel to finish his
5 answer, he allows you to finish
6 your answer, and just try not to
7 talk over each other.
8 THE WITNESS: Okay.
9 MS. HENN: Thank you.
10 BY MR. PAPANTONIO:
11 Q. It says, "Of these five
12 pharmacies the DEA could only find SORs
13 for three of them; that is, Accokeek,
14 Family Meds and Herndon."
15 Do you see that?
16 A. Yes, I see that.
17 Q. And then it goes on, "But
18 none were timely. They weren't reported
19 when they were discovered."
20 Do you see -- that's the DEA
21 saying that you reported these, they
22 weren't timely, and they were reported,
23 they were not -- were reported when they
24 were discovered. That's the DEA saying

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1 that.
2 Do you see that?
3 MS. HENN: Objection to
4 form.
5 THE WITNESS: That is what's
6 here in the report. I don't know
7 when they were discovered versus
8 when they were reported. It
9 doesn't have dates.
10 BY MR. PAPANTONIO:
11 Q. Well, it says they weren't
12 reported when they were discovered. Do
13 you have any reason to believe that the
14 DEA is lying about that --
15 MS. HENN: Objection.
16 BY MR. PAPANTONIO:
17 Q. -- as you look at this -- as
18 you look at this thing?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: I cannot tell
22 from what's written here. But no,
23 I don't believe they're lying.
24 But it doesn't say that they were

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1 reported on what date and they
2 were discovered on what date.
3 BY MR. PAPANTONIO:
4 Q. It just says, we looked at
5 the record. It says they weren't
6 reported when they were discovered. Do I
7 need to be any clearer than that? That's
8 what it says.
9 MS. HENN: Objection to
10 form.
11 BY MR. PAPANTONIO:
12 Q. They weren't -- wait, let me
13 break it down.
14 "The suspicious orders were
15 not reported when they were discovered."
16 Yes, that's what it says, correct?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: That is what
20 it says.
21 BY MR. PAPANTONIO:
22 Q. And that break -- that is
23 breaking the law when a suspicious order
24 is not reported when they're discovered,

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1 that break -- that's unlawful, correct?
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: The
5 requirement is you report it when
6 discovered.
7 BY MR. PAPANTONIO:
8 Q. Not three months later? Not
9 four months later, correct?
10 A. Not later, yes.
11 Q. And when the DEA took a look
12 at the records that you gave them, and
13 reviewed them, for the very place,
14 Landover, where you were the number one
15 guy in regulatory, they said, "You know
16 what? They weren't reported when they
17 were supposed to be reported."
18 That's what that says,
19 doesn't it?
20 A. It's saying that they
21 weren't reported when they were
22 discovered. It doesn't give dates
23 exactly when.
24 Q. And that's a violation that

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1 is -- that is -- actually is a violation
2 that's unlawful where it comes to selling
3 the kind of narcotics that you were
4 distributing here in the United States,
5 correct?
6 MS. HENN: Objection to
7 form.
8 BY MR. PAPANTONIO:
9 Q. It's unlawful?
10 A. Yes.
11 Q. And you know it's unlawful
12 as we sit here today, correct?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: Yes.
16 BY MR. PAPANTONIO:
17 Q. And you knew it was unlawful
18 when you were working as director of
19 regulatory. You knew it was unlawful not
20 to report when a suspicious order is
21 discovered, you knew it was unlawful not
22 to report it, right?
23 A. When it's discovered as
24 suspicious, yes.

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1 Q. And you knew that if the DEA
2 found out that you had a pharmacy that
3 was engaged in suspicious orders, that
4 the DEA could close them down. You
5 actually had that happen to you, didn't
6 you, the DEA closing down pharmacies that
7 you were in charge of?
8 A. I believe that has happened.
9 I can't recall exactly which ones they
10 closed before we stopped shipment.
11 Q. Well, sir, you -- let me do
12 this -- let me get this right.
13 A. Yeah.
14 Q. You're telling us right now
15 you don't have any memory of the DEA
16 closing pharmacies that you, Mr. Oriente,
17 was involved with. Is that your
18 testimony here today?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: No. That is
22 not what I'm saying. What I'm
23 saying is I don't recall in
24 Landover. I know of ones out of

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1 Pennsylvania where pharmacy was
2 closed. But that was one where I
3 actually reported to DEA activity,
4 and then they did their
5 investigation and closed the
6 pharmacy.
7 BY MR. PAPANTONIO:
8 Q. Sir, you're aware of -- if
9 you take a customer off of line, a
10 customer that's selling McKesson product,
11 and you close that pharmacy, McKesson
12 loses business, right?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: Yeah.
16 McKesson would stop doing business
17 with that customer.
18 BY MR. PAPANTONIO:
19 Q. And if you lose business,
20 you lose money, don't you?
21 A. That was never my
22 determining factor.
23 Q. That's not my question.
24 If you close a pharmacy,

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1 McKesson loses money, don't they?
2 A. McKesson would lose money,
3 yes.
4 Q. Yeah. And as a matter of
5 fact, one reason that the DEA would close
6 a pharmacy down is because of suspicious
7 orders, right?
8 A. That would be right.
9 Q. And so between 2008 and 2011
10 when you reported zero suspicious orders,
11 the DEA had no reason to close down a
12 pharmacy, did they?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: I wouldn't
16 know what -- why DEA would or
17 wouldn't act on a pharmacy.
18 BY MR. PAPANTONIO:
19 Q. Well, you know why -- you
20 know that one of the major reasons the
21 DEA will close down a pharmacy is because
22 of suspicious orders, right?
23 MS. HENN: Objection to
24 form.

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1 THE WITNESS: If they deemed
2 there was diversion going on, they
3 would, yes.
4 BY MR. PAPANTONIO:
5 Q. And if you don't report
6 suspicious orders, the DEA doesn't know
7 about it, and they don't know to close
8 down the pharmacy, right?
9 MS. HENN: Objection to
10 form.
11 THE WITNESS: Well --
12 BY MR. PAPANTONIO:
13 Q. True?
14 A. If we don't report a
15 suspicious order, because we haven't
16 identified it as a suspicious order.
17 Q. Right. And if you don't
18 report a suspicious order, DEA has no
19 reason to go close down a pharmacy,
20 right?
21 MS. HENN: Objection to
22 form.
23 THE WITNESS: No, I can't
24 speak for DEA.

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1 BY MR. PAPANTONIO:
2 Q. Well, for four years we know
3 that you didn't do that, and you know
4 that during your four years your company
5 was selling narcotics -- McKesson selling
6 narcotics to pharmacies all over the
7 country, right?
8 A. Yes --
9 MS. HENN: Objection to
10 form.
11 THE WITNESS: -- we had
12 customers throughout all 50
13 states.
14 BY MR. PAPANTONIO:
15 Q. And if you reported
16 suspicious orders, that would put the DEA
17 on notice that there might be a problem
18 with one of your customers, right?
19 A. That is a correct statement.
20 Q. Okay. Let's go to this
21 page -- next page is 16. It says,
22 "Failure to report timeline.
23 "Specifically DEA found just
24 three suspicious orders for the Herndon

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1 Pharmacy."
2 Do you see that?
3 A. Yes.
4 Q. And that's the one you said
5 closed down? They found three suspicious
6 orders that were reported after they
7 started their investigation, right?
8 A. In November, yes.
9 Q. Let me be very clear about
10 what we're talking about here. Okay.
11 In November, 2011, is the
12 first time that these suspicious orders
13 were submitted by you to the DEA; is that
14 right?
15 MS. HENN: Objection to
16 form.
17 THE WITNESS: That's what it
18 says here, that they were
19 submitted on November 15th.
20 BY MR. PAPANTONIO:
21 Q. Mm-hmm. And tell me when --
22 and if I remember, the first time that
23 they started asking about an
24 investigation of Herndon, was in January,

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1 correct? Excuse me, January 12th --
2 January 2012.
3 A. It's October 25, 2011, DEA
4 requested the files.
5 Q. Right. And then let's look
6 at the next line. It says, "And 226" --
7 "226 suspicious orders for Accokeek and
8 Family Meds were not reported until
9 January 2012." Right? That's what that
10 says, doesn't it?
11 A. Yes. That's what the
12 document says.
13 Q. So for each one of the 226
14 suspicious orders that weren't reported,
15 there is a fine of, what, \$10,000 per
16 suspicious order? Is that how that
17 works?
18 A. That's what the requirement
19 said, yes.
20 Q. And then it goes on, let's
21 go to the next page. By the way, before
22 we get there, let's go back to that page.
23 It says -- you understand that the -- the
24 226 suspicious orders for Accokeek, they

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1 were reported a week before the DEA
2 demanded a meeting with your company.
3 Did you know that?
4 MS. HENN: Objection to
5 form.
6 THE WITNESS: I did not know
7 that.
8 BY MR. PAPANTONIO:
9 Q. Nobody had told you that
10 before, that these 226 -- 226 suspicious
11 orders that just happened to be reported
12 about Accokeek and Family Meds were
13 reported a week before the DEA had
14 demanded a meeting with McKesson. Nobody
15 told you that prior to today, correct?
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: I was unaware
19 that that took place. Once --
20 once the DEA got involved, our
21 corporate offices handled those.
22 They would -- they would have the
23 interaction. It would have been
24 my boss, Don Walker, who would

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1 have handled that.
2 BY MR. PAPANTONIO:
3 Q. They didn't tell you what
4 happened, did they?
5 A. They did not make --
6 MS. HENN: Objection to
7 form.
8 THE WITNESS: They did not
9 make me aware, no.
10 BY MR. PAPANTONIO:
11 Q. They didn't even tell you
12 what happened at the end of this
13 investigation, did they?
14 MS. HENN: Objection to
15 form.
16 THE WITNESS: They did not.
17 BY MR. PAPANTONIO:
18 Q. They didn't tell you the
19 fines. They didn't tell you what the DEA
20 found. They didn't tell you anything,
21 did they?
22 A. I knew of the fine, but I --
23 and I knew of the findings, but I did not
24 know of the, you know, the guilty verdict

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1 that you mentioned earlier.
2 Q. Okay. The -- let's go to
3 Page 17. It says, "On February 28, 2012,
4 McKesson discontinued sales to Family
5 Pharmacy."
6 Do you see that?
7 A. Yes.
8 Q. And then right underneath
9 it, it says, "22" -- "22 suspicious
10 orders were submitted in March after
11 McKesson discontinued sales. That's what
12 that says, doesn't it?
13 A. It's what the document is
14 showing.
15 Q. Do you have --
16 A. I am not familiar as to why
17 the SORs would have been submitted after
18 we closed them.
19 Q. Well, if you did that,
20 that's absolutely a violation of the law,
21 22 times, right?
22 MS. HENN: Objection to
23 form.
24 THE WITNESS: Again, having

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1 not seen this document prior to
 2 today, I see it's written here.
 3 I'm not sure who would have sent
 4 in the 22 suspicious orders.
 5 Again, I did not. So I'm
 6 not familiar with who or when this
 7 was submitted.
 8 BY MR. PAPANTONIO:
 9 Q. Mr. Oriente --
 10 A. I would have written -- I
 11 would have written a letter and sent to
 12 DEA saying that we were closing family --
 13 it would have been a form letter, and I
 14 fill in the information, the DEA number,
 15 the customer, and I would have e-mailed
 16 that to DEA saying that we were closing
 17 Family Pharmacy and Accokeek.
 18 But I'm not, you know,
 19 familiar as to then what suspicious
 20 orders would have been sent in after the
 21 fact that we closed them.
 22 Q. But you can agree that if
 23 you held suspicious orders and did not
 24 report the suspicious orders as they were

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1 discovered, that is a violation -- a
 2 violation of the law, 22 times here,
 3 right?
 4 MS. HENN: Objection to
 5 form.
 6 THE WITNESS: In seeing
 7 this, I'm wondering who determined
 8 that they were suspicious.
 9 BY MR. PAPANTONIO:
 10 Q. You answer my questions.
 11 Don't ask me questions. I'm asking
 12 you --
 13 A. No, that wasn't -- I didn't
 14 ask a question. I said -- I said --
 15 Q. Well --
 16 MS. HENN: Counsel --
 17 THE WITNESS: I said I'm
 18 wondering who. It's not a
 19 question. It's a statement. I
 20 wonder who deemed them suspicious.
 21 BY MR. PAPANTONIO:
 22 Q. Well, do you think there's
 23 somebody working for McKesson who maybe
 24 doesn't know what a suspicious order is,

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1 that told the DEA that you had 22
 2 suspicious orders after you had already
 3 discontinued doing business with this
 4 pharmacy?
 5 MS. HENN: Objection to
 6 form.
 7 BY MR. PAPANTONIO:
 8 Q. Is there somebody who you
 9 could give me a name about, that did
 10 that, that maybe misled the DEA?
 11 MS. HENN: Objection to
 12 form.
 13 THE WITNESS: No. I don't
 14 have anyone. I'm just trying to
 15 determine, you know, what -- what
 16 determination was made in March of
 17 2012 that those 22 were deemed
 18 suspicious. That's all I'm
 19 asking.
 20 BY MR. PAPANTONIO:
 21 Q. And the next thing that
 22 maybe you're asking is -- because I'm
 23 asking it -- is, do you believe that the
 24 DEA is lying about what they're saying in

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1 this investigation report?
 2 A. No, I do not believe that
 3 the DEA is lying.
 4 Q. Okay. All right. The next
 5 thing it says, did -- "McKesson
 6 discontinued sales to Drug City Pharmacy
 7 on March 19, 2012."
 8 Do you see that?
 9 A. Yes.
 10 Q. And then 65 suspicious
 11 orders were submitted on March 21, 2012,
 12 right?
 13 A. Yeah. Two days afterwards.
 14 Q. Yeah, so McKesson
 15 discontinues sales to Drug City, and then
 16 after they discontinue the sales, they
 17 send in 65 suspicious orders to the DEA,
 18 correct?
 19 A. That's what this is saying,
 20 yes.
 21 Q. All right. And then let's
 22 go to the next page. That's Page 18.
 23 Sir, when you have questions about who
 24 did what and why they did it, you're

<p>Page 170</p> <p>1 going to have to ask your lawyer, because 2 right now this is DEA report. This is 3 their investigation. 4 A. Understood. 5 Q. This is not my 6 investigation. 7 MS. HENN: And, Counsel, I 8 would ask you not to instruct my 9 witness how to respond to your 10 questions. 11 MR. PAPANTONIO: Well, he 12 obviously -- 13 MS. HENN: He will 14 respond -- 15 MR. PAPANTONIO: He needs to 16 ask questions -- 17 MS. HENN: -- as best he 18 can. 19 MR. PAPANTONIO: -- to 20 somebody other than me. 21 BY MR. PAPANTONIO: 22 Q. Okay. So let's go to this 23 one. This is Page 18. And it says 24 failure -- again, "Failure to report."</p> <p>Page 171</p> <p>1 And this is about McKesson's failure to 2 report. 3 Do you see that? 4 A. That's what it's titled. 5 Q. It even gives us a summary 6 of the things that McKesson failed to 7 report, right? That's what it does, it 8 gives a summary? 9 A. Yes. 10 Q. And it says on November 15, 11 2011, McKesson failed to report -- 12 McKesson reported three suspicious order 13 transactions at Herndon Pharmacy in 14 medical -- medical D -- medical supply. 15 Do you see that? 16 A. Yes. 17 Q. It goes on. And this is 18 saying "Failure to report," at the top of 19 this, right? 20 MS. HENN: Objection. 21 BY MR. PAPANTONIO: 22 Q. Do you see where it says 23 failure to report in big bold letters? 24 MS. HENN: Objection to</p>	<p>Page 172</p> <p>1 form. 2 THE WITNESS: Yes. 3 BY MR. PAPANTONIO: 4 Q. The next one is 5 January 19th. It's Accokeek, 226 6 suspicious orders. 7 Do you see that? 8 A. Yes. 9 Q. The next one is Family Meds. 10 Do you see that? McKesson, two 11 suspicious orders, right? 12 A. What I'm -- what I'm seeing 13 here, it says that we reported them. And 14 then at the top it says, "Failure to 15 report." So -- 16 Q. Yeah, well, we're -- you're 17 going to see why they said that in just a 18 minute. 19 A. Okay. 20 Q. So the next one says 65 21 suspicious orders on March 12th -- 22 March 2012, failed to report. Right? 23 A. Mm-hmm. 24 Q. Go to the next page. Page</p> <p>Page 173</p> <p>1 19. It says failure to report. That's 2 not my words. That is the DEA saying 3 failure to report. 4 It says, "Even after 5 entering into the settlement 6 agreement" -- we're talking about the 7 2008 settlement agreement, right? 8 A. Right. 9 Q. Do you know of any other 10 settlement agreement that they entered 11 into besides 2008? 12 A. I believe there was one in 13 2013. 14 Q. Okay. So they entered into 15 a settlement agreement in 2013. They 16 entered into a settlement agreement in 17 2008. And they entered into settlement 18 agreements because they were breaking the 19 law, correct? 20 MS. HENN: Objection to 21 form. 22 THE WITNESS: I don't know 23 exactly why they settled. That 24 was -- I was not involved with the</p>
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<p style="text-align: right;">Page 174</p> <p>1 settlement.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. But you know they were</p> <p>4 breaking the law, don't you?</p> <p>5 MS. HENN: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: You mentioned</p> <p>8 that earlier today in the 2008</p> <p>9 case.</p> <p>10 BY MR. PAPANTONIO:</p> <p>11 Q. Yeah.</p> <p>12 A. As I stated earlier, I</p> <p>13 thought they had a settlement and simply</p> <p>14 paid a civil fine.</p> <p>15 Q. Okay. So we had -- so far</p> <p>16 we have 2008, 2013, where they enter into</p> <p>17 a settlement with the DEA. And what they</p> <p>18 say in the settlement, we're going to get</p> <p>19 it right this time, right? We're going</p> <p>20 to do right. That's what they say,</p> <p>21 right?</p> <p>22 MS. HENN: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: We're going to</p>	<p style="text-align: right;">Page 176</p> <p>1 Q. Okay. Because nobody ever</p> <p>2 showed this to you. And you were the</p> <p>3 director of regulatory at Landover, one</p> <p>4 of the biggest distribution sites</p> <p>5 McKesson owned, right?</p> <p>6 A. I don't know how Landover</p> <p>7 compared to the other 20 something</p> <p>8 distribution centers that we have.</p> <p>9 Q. So let's see what the DEA</p> <p>10 says on this page. And again, this is</p> <p>11 your opportunity to tell me that you</p> <p>12 believe the DEA was lying. If you want</p> <p>13 to say that on the record, I'll be glad</p> <p>14 to take it. But let's look at what it</p> <p>15 says.</p> <p>16 A. I've said more than twice</p> <p>17 that I don't believe the DEA is lying.</p> <p>18 Q. All right. If they're not</p> <p>19 lying, here is what it says. "Even after</p> <p>20 entering into the settlement agreement,</p> <p>21 McKesson by its own admissions failed to</p> <p>22 report at least 318 suspicious orders at</p> <p>23 the time that they were or should have</p> <p>24 been discovered."</p>
<p style="text-align: right;">Page 175</p> <p>1 make changes, yes.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. Okay. How many narcotics do</p> <p>4 you think McKesson sold between 2008 and</p> <p>5 2013? Do you have a swag number of how</p> <p>6 many millions of narcotic pills that</p> <p>7 McKesson put on the street in America</p> <p>8 between 2008 and 2013?</p> <p>9 MS. HENN: Objection to</p> <p>10 form.</p> <p>11 THE WITNESS: I don't have</p> <p>12 that total number, no.</p> <p>13 BY MR. PAPANTONIO:</p> <p>14 Q. Do you have any idea how</p> <p>15 many narcotic pills McKesson was selling</p> <p>16 every year?</p> <p>17 A. I do not have that total</p> <p>18 number, no.</p> <p>19 Q. We're going to look at it in</p> <p>20 a minute. I just want to know -- it's</p> <p>21 right here in this report. I want to</p> <p>22 know if you have any memory.</p> <p>23 A. No, I never seen that</p> <p>24 number.</p>	<p style="text-align: right;">Page 177</p> <p>1 Do you see that?</p> <p>2 A. Yes. That's the first</p> <p>3 bullet.</p> <p>4 Q. You understand that's not my</p> <p>5 words. That's the Department of Justice,</p> <p>6 the DEA, the U.S. government.</p> <p>7 A. Mm-hmm.</p> <p>8 Q. And they gave you the right</p> <p>9 to sell these -- the U.S. government</p> <p>10 gives the distributor, McKesson, the</p> <p>11 right to do this if they follow the law,</p> <p>12 correct?</p> <p>13 A. That is correct. That's</p> <p>14 stipulation of being a registrant.</p> <p>15 Q. And right now, in America,</p> <p>16 McKesson, Amerisource, and Cardinal are</p> <p>17 the three biggest narcotic distributors</p> <p>18 in the country, correct?</p> <p>19 A. Yes, that is correct.</p> <p>20 Q. And so those three people</p> <p>21 were given a special right to sell</p> <p>22 narcotics to the American public, and all</p> <p>23 the government asked you to do was report</p> <p>24 when you see suspicious orders, right?</p>

<p style="text-align: right;">Page 178</p> <p>1 Correct?</p> <p>2 A. That's part of the</p> <p>3 stipulation, yes.</p> <p>4 Q. And the DEA determined that</p> <p>5 there were -- at least right here, that</p> <p>6 there were 318 suspicious orders that, by</p> <p>7 McKesson's own admission, they failed to</p> <p>8 report and should have been reported,</p> <p>9 right?</p> <p>10 A. That's what it says here,</p> <p>11 yes, that McKesson by its own admission.</p> <p>12 Again, this is the first time I'm seeing</p> <p>13 this. So I was unaware of that.</p> <p>14 Q. Do you feel -- sir, would</p> <p>15 you like to have seen this before you</p> <p>16 came in here to testify about what you</p> <p>17 know about diversion and the sale of</p> <p>18 narcotic drugs by McKesson throughout the</p> <p>19 United States? Is this something that</p> <p>20 would have helped up testify here today?</p> <p>21 MS. HENN: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: I don't</p> <p>24 believe it would have helped me</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Well, answer this. Do you</p> <p>2 see where it says, "This is only the tip</p> <p>3 of the iceberg"?</p> <p>4 A. That is the next bullet down</p> <p>5 on this report, yes.</p> <p>6 Q. That is the DEA saying that</p> <p>7 McKesson failed to report 318 suspicious</p> <p>8 orders at the time that they should have</p> <p>9 been reported and that, you know what,</p> <p>10 that's only the tip of the iceberg,</p> <p>11 that's the first time you saw those</p> <p>12 words, "tip of the iceberg," right?</p> <p>13 A. That is correct.</p> <p>14 Q. Do you know what the rest of</p> <p>15 the iceberg looks like underneath the</p> <p>16 tip? How much more failure to report</p> <p>17 took place at McKesson?</p> <p>18 MS. HENN: Objection to</p> <p>19 form.</p> <p>20 BY MR. PAPANTONIO:</p> <p>21 Q. Do you know of any other</p> <p>22 reporting -- let me scratch that. Let me</p> <p>23 totally scratch that and ask you:</p> <p>24 This is telling me 318</p>
<p style="text-align: right;">Page 179</p> <p>1 testify here today, no.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. Okay. Because you knew all</p> <p>4 this before you came here, didn't you?</p> <p>5 A. No, sir. That's not a true</p> <p>6 statement.</p> <p>7 Q. So you knew before you even</p> <p>8 walked in this room that McKesson had</p> <p>9 failed to report 318 suspicious orders</p> <p>10 when they should have reported it. You</p> <p>11 knew that prior to coming here today,</p> <p>12 didn't you?</p> <p>13 MS. HENN: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: No, I did not</p> <p>16 know that.</p> <p>17 BY MR. PAPANTONIO:</p> <p>18 Q. Nobody with McKesson shared</p> <p>19 that with you, did they?</p> <p>20 A. They did not.</p> <p>21 Q. And this is the first time</p> <p>22 you've heard it?</p> <p>23 A. The first time I'm seeing it</p> <p>24 and hearing it, yes.</p>	<p style="text-align: right;">Page 181</p> <p>1 suspicious orders that McKesson failed to</p> <p>2 report on narcotic drugs that they were</p> <p>3 selling to people in this country. 318.</p> <p>4 Now, are there more that I</p> <p>5 need to know about that you know about as</p> <p>6 we sit here and talk today?</p> <p>7 MS. HENN: Objection to</p> <p>8 form.</p> <p>9 THE WITNESS: I am unaware</p> <p>10 of any others that were not</p> <p>11 reported.</p> <p>12 BY MR. PAPANTONIO:</p> <p>13 Q. You weren't even aware that</p> <p>14 these weren't reported, right?</p> <p>15 A. That's what I said, yeah. I</p> <p>16 am unaware. I've never seen this report.</p> <p>17 I did not have these numbers. And you</p> <p>18 know, this report was handled between DEA</p> <p>19 and McKesson corporate offices.</p> <p>20 Q. Well, who is corporate -- is</p> <p>21 Mr. -- what's -- Hammergren, is he</p> <p>22 corporate office?</p> <p>23 A. My boss would have been Don</p> <p>24 Walker.</p>

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1 Q. Well, is Mr. Hammergren, is
2 he -- do you consider him corporate?
3 MR. PAPANTONIO: Give me the
4 video. Are you ready for a video
5 on this something? Give me
6 Video 7.
7 (Document marked for
8 identification as Exhibit
9 MCK-Oriente-Video-7.)
10 BY MR. PAPANTONIO:
11 Q. Do you know Mr. Hammergren
12 is?
13 A. Yes.
14 Q. Have you ever walked up and
15 shaken his hand?
16 A. I met him one time.
17 Q. Did you watch him when he
18 swore before the -- when he raised his
19 right hand and swore to the congressional
20 hearing and testified? Did you watch him
21 testify?
22 A. I saw it on television.
23 MR. PAPANTONIO: Okay.
24 Could you -- are you able to show

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1 that video. Let me give a copy
2 of -- give me -- the hard copies
3 to counsel.
4 BY MR. PAPANTONIO:
5 Q. Let's watch this video. And
6 I want to ask you whether you saw this.
7 MS. HENN: You mentioned
8 hard copies.
9 MR. PAPANTONIO: Yeah, we
10 got -- we got hard copies of
11 transcripts.
12 MR. PAPANTONIO: So go ahead
13 and play this.
14 MS. HENN: Do you want the
15 witness to have a hard copy?
16 MR. PAPANTONIO: No, I
17 don't. I want him to watch this
18 video as a guy running his company
19 who testified in front of Congress
20 under the threat of perjury.
21 That's what I want. Show this
22 video, please.
23 (Video playback.)
24 MR. HAMMERGREN: We have a

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1 role to play, Congressman,
2 certainly. And in your example
3 one of the most important roles we
4 play is to make sure we find
5 suspicious customers and
6 suspicious orders and cut off the
7 supply to those customers.
8 (End of video playback.)
9 BY MR. PAPANTONIO:
10 Q. Did you hear that testimony?
11 A. I did hear it, yes.
12 Q. Okay. Will you tell
13 everybody -- tell the jury where it is
14 that Mr. Hammergren, the CEO of your
15 company, ever was told that it was okay
16 to report suspicious customers instead of
17 suspicious orders.
18 Please tell me, if you
19 can -- in your experience in regulatory,
20 would you please tell me any place that
21 you can identify that Mr. Hammergren
22 would be led to believe that it was okay
23 to report suspicious orders?
24 MS. HENN: Objection to

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1 form.
2 THE WITNESS: You just said
3 two different things you said
4 suspicious customers --
5 BY MR. PAPANTONIO:
6 Q. Suspicious customers.
7 A. -- and suspicious orders.
8 Okay. So you want to --
9 MS. HENN: Objection to
10 form.
11 MR. PAPANTONIO: Yeah, let's
12 play it again. I want to make
13 sure we get this. Play it again,
14 please.
15 (Video playback.)
16 MR. HAMMERGREN: We have a
17 role to play, Congressman,
18 certainly. And in your example
19 one of the most important roles we
20 play is to make sure we find
21 suspicious customers and
22 suspicious orders and cut off the
23 supply to those customers.
24 (End of video playback.)

<p style="text-align: right;">Page 186</p> <p>1 BY MR. PAPANTONIO: 2 Q. So he says that one of the 3 most important roles you play is to 4 report suspicious orders. 5 That's what he just said, 6 right? 7 A. Well, he said suspicious 8 customers and suspicious orders. 9 Q. And you know there's nothing 10 in the -- there is -- at no time did the 11 DEA tell you that it was okay to report 12 suspicious customers? 13 MS. HENN: Objection. 14 BY MR. PAPANTONIO: 15 Q. You know that that's 16 something that you made up? 17 MS. HENN: Objection to 18 form. 19 BY MR. PAPANTONIO: 20 Q. Suspicious customers? 21 A. Suspicious customers is not 22 in the regulation. 23 Q. Right. And you know that 24 Mr. Hammergren raised his right hand and</p>	<p style="text-align: right;">Page 188</p> <p>1 our highest responsibility, to report 2 suspicious orders." That's what he just 3 said, right? 4 MS. HENN: Objection to 5 form. 6 THE WITNESS: He said 7 that -- was it this year 2018? 8 And this is referring to what 9 20-something. 10 BY MR. PAPANTONIO: 11 Q. Is something different? 12 A. No. What I'm saying is, in 13 his statement -- can we play it again? 14 Q. Yes, sir. Before we play 15 it, let me ask if you know this. Do you 16 know that he raised his right hand -- 17 A. Okay. 18 Q. -- and swore before Congress 19 about what he was going to testify to? 20 Did you know that? 21 A. Yeah, I watched it on 22 television at home. 23 Q. You watched the whole thing? 24 A. Right. Yeah.</p>
<p style="text-align: right;">Page 187</p> <p>1 testified in front of Congress, telling 2 Congress that it was okay just to report 3 suspicious customers rather than 4 suspicious orders. That's what he just 5 said? 6 MS. HENN: Objection to 7 form. 8 THE WITNESS: I believe he 9 said -- and I believe in his 10 statement he said suspicious 11 customers and suspicious orders. 12 BY MR. PAPANTONIO: 13 Q. Okay. So let's -- 14 A. Not or. 15 Q. Let's talk about the 16 suspicious orders. We just saw a 17 document that 318 suspicious orders were 18 never reported to the DEA, right? 19 A. That's what the document 20 states. Yes. 21 Q. And you just had the 22 president, the CEO of McKesson, the 23 highest guy in the entire food chain, 24 saying, "You know what? We think that's</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. Okay. Let's watch it again 2 here. 3 (Video playback.) 4 MR. HAMMERGREN: We have a 5 role to play, Congressman, 6 certainly. And in your example 7 one of the most important roles we 8 play is to make sure we find 9 suspicious customers and 10 suspicious orders and cut off the 11 supply to those customers. 12 (End of video playback.) 13 BY MR. PAPANTONIO: 14 Q. So the most important thing 15 is suspicious orders? 16 A. And suspicious customers and 17 cut off the supply. 18 Q. And you're not able to tell 19 me anywhere in the regulatory anywhere 20 where it says, you know what, all we have 21 to do is report suspicious customers or 22 suspicious orders? 23 MS. HENN: Objection. 24 BY MR. PAPANTONIO:</p>

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1 Q. You're not aware of that
2 anywhere, right?
3 MS. HENN: Objection to
4 form.
5 THE WITNESS: It says we
6 need to report suspicious orders.
7 BY MR. PAPANTONIO:
8 Q. Orders. Not suspicious
9 customers, right?
10 A. That is correct.
11 Q. So he's making that up right
12 there, isn't he?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: I can't speak
16 for him.
17 BY MR. PAPANTONIO:
18 Q. Well, he's misleading
19 Congress, and he swore under oath to tell
20 the truth, right?
21 MS. HENN: Objection to
22 form.
23 BY MR. PAPANTONIO:
24 Q. Yes?

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1 A. He was before Congress, yes.
2 But I can't speak for Mr. Hammergren.
3 MR. PAPANTONIO: Let's go
4 back to this document. We have
5 more videos we'll listen to.
6 BY MR. PAPANTONIO:
7 Q. In fact, in this -- this
8 document we're talking about, it says,
9 "In fact, McKesson did not report any of
10 these suspicious orders until it was
11 known" --
12 MR. PAPANTONIO: Would you
13 please underline this.
14 BY MR. PAPANTONIO:
15 Q. "McKesson did not report any
16 of these suspicious orders until it was
17 known that the DEA was inquiring about
18 the ordering patterns of McKesson's top
19 Landover DF customers."
20 Do you see that? Isn't that
21 what we've been talking about,
22 Mr. Oriente, that none of these
23 suspicious orders were actually reported
24 until the DEA started this investigation.

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1 That's what that says right there, right?
2 MS. HENN: Objection to
3 form.
4 BY MR. PAPANTONIO:
5 Q. Am I right?
6 A. That's what it says here.
7 Q. Okay.
8 A. As I said, my review of
9 customers was continual. And again, if
10 I'm looking at the same customers that
11 the DEA was looking at, that would -- was
12 done because of the volume of these top
13 customers.
14 Q. Okay. And again, you have
15 no --
16 MS. HENN: Counsel, please
17 let him finish his answer.
18 BY MR. PAPANTONIO:
19 Q. Are you finished?
20 A. What is DF customers?
21 Q. Sir, I'm not going to --
22 this is me asking questions of you.
23 Okay? This isn't you asking questions of
24 me.

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1 A. Well, then I don't
2 understand what this says.
3 Q. Okay. Fine.
4 A. It says McKesson's top
5 Landover DF customers.
6 Q. So you don't -- let's go
7 with you don't understand what this says.
8 A. The DF piece. Let's be
9 specific.
10 Q. Okay. You don't
11 understand -- you don't understand what
12 DF means. Nobody had ever told you that
13 318 suspicious orders were never
14 reported, right?
15 A. That is correct.
16 Q. Let's go to -- and by the
17 way, you were the number one guy in
18 Landover for regulatory, right?
19 A. I was responsible to monitor
20 what was being purchased. The suspicious
21 order reporting was done from McKesson's
22 corporate office.
23 Q. And the corporate office,
24 was that a bunch -- were those lawyers

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1 sitting around determining what ought to
2 go to the DEA or not go to the DEA? Were
3 those lawyers who made that
4 determination?
5 A. I don't know that. I don't
6 know who made the determination.
7 Q. Because I thought earlier in
8 this -- in this discussion you told me
9 that it was sent to the lawyers.
10 A. When a request for DEA
11 information from a subpoena or top
12 customers, when a request came in for
13 information, that went to our law
14 department.
15 If it was the suspicious
16 orders, I'm not sure if that was Don
17 Walker sending that in or -- or someone
18 in our law department.
19 Q. So nobody -- at least we
20 know this much. Nobody in the law
21 department called you up and said, "Hey,
22 Mr. Oriente, you might want to know
23 before you go testify today that we
24 didn't report 318 suspicious orders."

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1 MS. HENN: Objection. I
2 think you're asking him what a
3 lawyer told him.
4 MR. PAPANTONIO: Let me --
5 I'm --
6 MS. HENN: I'm going to
7 instruct -- can I finish?
8 MR. PAPANTONIO: Yeah, go
9 ahead. Instruct him.
10 MS. HENN: I'm going to
11 instruct the witness not to answer
12 questions about what lawyers did
13 or didn't say to him. That's not
14 a proper question.
15 BY MR. PAPANTONIO:
16 Q. You told us that suspicious
17 information was sent to the lawyers in
18 San Francisco. Didn't you tell me that?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: I did not say
22 that.
23 BY MR. PAPANTONIO:
24 Q. It was sent to the law

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1 department, right?
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: I said a DEA
5 request for information was sent
6 to our law department. All our
7 correspondence with DEA, we do not
8 decide what we submit. It goes to
9 our law department. They review
10 it. They pull the documents.
11 They would send the top ten
12 customers that the DEA requested.
13 I did not say suspicious orders
14 would go through the law
15 department.
16 BY MR. PAPANTONIO:
17 Q. So let's go on. Okay.
18 Let's go to the next page.
19 "Multiple analysis." Do you
20 see where it says multiple analysis?
21 A. Yes.
22 Q. Next page, please.
23 "Multiple analysis. The DEA analyzed
24 data submitted by McKesson."

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1 Do you see that?
2 A. Yes.
3 Q. In other words, the DEA
4 asked you, "Would you please give us all
5 the information about these ten
6 pharmacies?"
7 Do you remember that?
8 A. Yes.
9 Q. Let's look -- let's look at
10 the pharmacies. So they analyze the
11 pharmacies, right? Right?
12 A. That's what it says here,
13 yes.
14 Q. And then they do this
15 report, correct?
16 A. That's -- it says they
17 analyzed the data that McKesson submitted
18 to them.
19 Q. And they say they analyzed
20 it monthly. Do you see where it says
21 monthly?
22 A. Mm-hmm.
23 Q. Let's see -- let's see what
24 they found. Okay. Go to the next page.

<p style="text-align: right;">Page 198</p> <p>1 The DEA then determined the</p> <p>2 average monthly orders of controlled</p> <p>3 substances. Do you see where it says</p> <p>4 that?</p> <p>5 A. Yes.</p> <p>6 Q. The DEA then determined the</p> <p>7 average monthly orders of controlled</p> <p>8 substances.</p> <p>9 Tell the jury why it's so</p> <p>10 important to analyze the monthly orders</p> <p>11 of controlled substances narcotics?</p> <p>12 MS. HENN: Objection to</p> <p>13 form.</p> <p>14 BY MR. PAPANTONIO:</p> <p>15 Q. Tell the jury why that's so</p> <p>16 important?</p> <p>17 MS. HENN: Same objection.</p> <p>18 THE WITNESS: We looked at</p> <p>19 customers on a monthly threshold</p> <p>20 basis. And by that, I mean that</p> <p>21 they are allocated a quantity that</p> <p>22 they can order per month. And</p> <p>23 then orders are automatically</p> <p>24 blocked if they try to exceed that</p>	<p style="text-align: right;">Page 200</p> <p>1 Another red flag would be</p> <p>2 distance of patients to the pharmacy. So</p> <p>3 there are several red flags to look at.</p> <p>4 Q. Let's talk about this red</p> <p>5 flag. One red flag is when the average</p> <p>6 monthly orders of controlled substances</p> <p>7 look like they're higher than they should</p> <p>8 be, right? That's a red flag, isn't it?</p> <p>9 A. Higher than they should be?</p> <p>10 Q. The average is. The average</p> <p>11 is higher than the typical average.</p> <p>12 That's a red flag, right?</p> <p>13 A. If a -- that could be one</p> <p>14 red flag. Volume does not, you know,</p> <p>15 constitute -- volume alone, depending on</p> <p>16 the size of the pharmacy, does not</p> <p>17 constitute a diversion. It would be one</p> <p>18 red flag of many that would require</p> <p>19 additional due diligence to research.</p> <p>20 Q. In other words, if a</p> <p>21 pharmacy all of the sudden orders 40</p> <p>22 times the average that they should be --</p> <p>23 of their monthly average, that's</p> <p>24 certainly a red flag, isn't it?</p>
<p style="text-align: right;">Page 199</p> <p>1 monthly allocation.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. And so, that -- isn't there</p> <p>4 something called a red flag? Have you</p> <p>5 ever heard the term "red flag"?</p> <p>6 A. I have.</p> <p>7 Q. Tell the jury what a red</p> <p>8 flag is.</p> <p>9 A. There are different red</p> <p>10 flags. Red flags could be a customer is</p> <p>11 omitting, and by that I mean that the</p> <p>12 order is being blocked. They're trying</p> <p>13 to order more than what they're</p> <p>14 authorized to order.</p> <p>15 Another red flag that we</p> <p>16 looked at were amount of cash sales that</p> <p>17 a pharmacy might be doing.</p> <p>18 Another red flag would be if</p> <p>19 one particular doctor was writing an</p> <p>20 exorbitant of prescriptions at a</p> <p>21 pharmacy.</p> <p>22 Another red flag is their</p> <p>23 control percentage of total Rx within</p> <p>24 pharmacy.</p>	<p style="text-align: right;">Page 201</p> <p>1 A. In that example it would be.</p> <p>2 Q. Yeah. How about 30 times?</p> <p>3 A. That example I would say it</p> <p>4 would be.</p> <p>5 Q. Yeah. And so you're now</p> <p>6 aware that the DEA has looked at all the</p> <p>7 information that they gleaned from those</p> <p>8 ten pharmacies, and they've done their</p> <p>9 own analysis, according to this, right?</p> <p>10 According to this?</p> <p>11 A. According to this, yeah.</p> <p>12 Q. It says, "Finally, the DEA</p> <p>13 identified the number of transactions</p> <p>14 that represented multiples of the average</p> <p>15 monthly orders of McKesson Landover."</p> <p>16 Sir, that's where you were</p> <p>17 in charge. You were in charge of</p> <p>18 regulatory at Landowner -- Landover,</p> <p>19 right?</p> <p>20 A. Yes, I was responsible for</p> <p>21 Landover.</p> <p>22 Q. That's your responsibility,</p> <p>23 correct?</p> <p>24 A. Mm-hmm.</p>

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1 Q. Is there anybody there -- is
2 there anybody there in regulatory that
3 had a higher responsibility there at
4 Landover than you?

5 A. No.

6 Q. Okay. So we are talking to
7 the right guy where it becomes
8 responsibility about regulatory, aren't
9 we?

10 A. For Landover, yes.

11 Q. Yeah. Okay. So let's look
12 at what it says. Go to the next page.
13 "McKesson Landover, distributor
14 oxycodone, dosage units, sales to
15 pharmacies May 2008, month-to-date
16 totals."

17 Do you see that?

18 A. Yes.

19 Q. "Month-to-date totals
20 compared with the monthly pharmacy
21 averages."

22 Do you see that?

23 A. Yes, I see that.

24 Q. Now, you see the first --

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1 you see the first column, it says the,
2 "Multiple of the monthly pharmacy
3 average."

4 Go down to where -- you see
5 the -- you see the two. Do you see that
6 two?

7 A. Mm-hmm.

8 Q. It says that as far as times
9 that there were a month -- as far as
10 times that there were orders of two times
11 the monthly average, they say that
12 happened 122,288 times while they're at
13 Landover. That's what that says. Do you
14 see it?

15 A. I see it. Can I have a
16 minute just to read this?

17 Q. Yes, sir. You take all the
18 time you want. We're going to go through
19 the numbers because this is where you
20 were in charge.

21 A. Okay.

22 Q. All right. Now, you see
23 where it says one hundred -- forgive
24 me -- 122,280 times that there was

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1 oxycodone dosages that exceeded the
2 monthly average by two.

3 Do you see that?

4 A. I see that. I'm trying to
5 understand what it is that they're --

6 Q. We'll see if this helps you.
7 Let's go down to --

8 MS. HENN: Counsel, he's
9 still talking.

10 THE WITNESS: I'm trying to
11 see what it is -- the heading
12 says, "Number of sales
13 transactions" --

14 BY MR. PAPANTONIO:

15 Q. Right.

16 A. -- "with a month-to-date
17 total dosage units at least this multiple
18 of monthly pharmacy average."

19 Q. Right.

20 A. So they're saying that there
21 were certain pharmacies that are above
22 the average.

23 Q. No, sir. They are talking
24 about Landover. They're saying --

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1 McKesson Landover as a distributor sold
2 oxycodone in dosage unit sales to
3 pharmacies between May 20 -- between May
4 2008 and 2012.

5 Do you see that? Did I read
6 that right?

7 A. Mm-hmm.

8 Q. And then it shows you
9 exactly what the multiples are of how
10 many times the average McKesson sold. Do
11 you see where it says down here -- it
12 says, for example, three. Do you see the
13 three underneath the two?

14 A. In the first column, yes.

15 Q. Okay. So three -- we're
16 talking about three times the monthly
17 average. 71 thousand times that was sold
18 from Landover.

19 A. Over four years.

20 Q. Yes. Well, that's what it
21 says.

22 A. Okay.

23 Q. Okay. Now, they thought
24 that was important to the point -- if you

<p style="text-align: right;">Page 206</p> <p>1 go to the right. They were going to 2 propose a fine -- if you go to the right. 3 They were going to propose a fine of 4 \$1,222,880,000. You see that? That's 5 the proposed fine for the violation of 6 selling 122,288 times a dosage of two as 7 a multiple? 8 MS. HENN: Objection to 9 form. 10 BY MR. PAPANTONIO: 11 Q. Do you see that? 12 A. I see what it's saying. I'm 13 not really understanding what this is 14 showing me. 15 Q. Because nobody showed it to 16 you, right, before coming in here today. 17 Nobody showed this to you, did they? 18 A. No, I never seen this 19 document. 20 Q. You had -- you had no idea, 21 that as a matter of fact 10,000 times -- 22 if you go down to -- see where it says 23 ten right there? Do you see the ten? 24 MS. HENN: Counsel, which</p>	<p style="text-align: right;">Page 208</p> <p>1 That's coming from the DEA. You 2 understand that, right? 3 MS. HENN: Objection to 4 form. Let's let the witness 5 answer your question. 6 THE WITNESS: The document 7 says that multiple of monthly 8 pharmacy average was ten times, 9 and that the number of sales 10 transactions month-to-date total 11 dosage units at least this 12 multiple of monthly pharmacy 13 average occurred 10,000 times over 14 a four-year period. 15 MS. HENN: Now, are you -- 16 Mr. Oriente -- 17 THE WITNESS: Yeah, so we 18 had pharmacies that were above the 19 average. 20 Now, since you're dealing 21 with an average, wouldn't you 22 expect to have pharmacies above 23 the average and others below the 24 average if you're looking at an</p>
<p style="text-align: right;">Page 207</p> <p>1 ten are you talking about? 2 BY MR. PAPANTONIO: 3 Q. The ten right on that page. 4 It's about four from the bottom. 5 MS. HENN: On the first 6 column? 7 MR. PAPANTONIO: First 8 column. 9 MS. HENN: Thank you. 10 MR. PAPANTONIO: See where 11 that big ten is? Would you 12 highlight the ten, so everybody 13 can see the ten. 14 BY MR. PAPANTONIO: 15 Q. See right there on that ten, 16 it says ten times -- excuse me. No, no. 17 It says 10,000 times. 10,609 times 18 McKesson Landover distributor allowed ten 19 times the averages -- monthly average to 20 be sold. That's what that says, right? 21 MS. HENN: Objection to 22 form. 23 BY MR. PAPANTONIO: 24 Q. I mean, that's not my words.</p>	<p style="text-align: right;">Page 209</p> <p>1 average? 2 BY MR. PAPANTONIO: 3 Q. Sir, you are the guy in 4 charge of the -- you're in charge of -- 5 A. Well, I'm telling you that. 6 If you take an average, you're going to 7 have -- 8 Q. Let's -- 9 MS. HENN: Let's -- 10 THE WITNESS: Let me finish, 11 please. 12 BY MR. PAPANTONIO: 13 Q. Finish your -- finish 14 your -- because I'm -- because what I'm 15 trying to figure out -- 16 MS. HENN: Counsel -- 17 MR. PAPANTONIO: Hang on. 18 MS. HENN: You've not 19 letting him finish. 20 BY MR. PAPANTONIO: 21 Q. Okay. I want you to finish, 22 but here's what I want you to finish: 23 Why did they want to fine you 24 \$1,222,880,000 for that one entry?</p>

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1 MS. HENN: Counsel, he never
2 finished your prior question.
3 It's really not proper for you to
4 interrupt his answer and ask a
5 different question.
6 BY MR. PAPANTONIO:
7 Q. Go ahead and answer the best
8 you can.
9 MS. HENN: So he was in the
10 middle of answering and if you
11 could just let him respond --
12 BY MR. PAPANTONIO:
13 Q. All right. I'll -- go ahead
14 and answer why --
15 MS. HENN: -- it would be
16 helpful.
17 BY MR. PAPANTONIO:
18 Q. -- answer how you allow ten
19 times --
20 MS. HENN: You're doing it
21 again. You're asking a different
22 question.
23 MR. PAPANTONIO: Yeah, well,
24 let me ask --

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1 MS. HENN: If you can just
2 stop talking, so he can finish the
3 question --
4 MR. PAPANTONIO: Well, would
5 you read the question I asked
6 where he started talking about
7 some -- Madam Court Reporter.
8 THE COURT REPORTER: Sure.
9 MR. PAPANTONIO: What is the
10 last question I asked before he
11 went off on what he wanted to talk
12 about? What was it?
13 (The requested portion of
14 the testimony was read back by the
15 court reporter.)
16 MS. HENN: And that's not
17 the question that he had been
18 responding to. The question that
19 he had been responding to was
20 about, "Right there on that ten,
21 it says ten times -- excuse me,
22 no, no. It says 10,000 times.
23 10,609 times McKesson Landover
24 distributor allowed ten times the

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1 averages -- monthly average to be
2 sold. That's what it says,
3 right?"
4 MR. PAPANTONIO: Okay. He
5 answered it.
6 MS. HENN: And you went on
7 and said, "That's not my words.
8 That's coming from the DEA. You
9 understand that?"
10 The witness was responding
11 to that when he was interrupted.
12 MR. PAPANTONIO: Let him
13 respond to that question.
14 MS. HENN: Thank you. Thank
15 you.
16 THE WITNESS: So the 10,000
17 times over the four years would
18 equate to 2,500 times a year
19 divided by the 12 months in a
20 year. You are looking at 200 in
21 a -- in a month. And that's about
22 50 times in a week.
23 And so that's ten orders a
24 day, where you have customers that

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1 are above the average.
2 BY MR. PAPANTONIO:
3 Q. Yeah.
4 A. So again, if you're dealing
5 with an average, you're going to have
6 certain customers that are above average,
7 and certain that are below.
8 Q. Sir --
9 MS. HENN: Counsel.
10 THE WITNESS: You'll
11 always -- let me finish, please.
12 BY MR. PAPANTONIO:
13 Q. Go ahead.
14 MS. HENN: Thank you.
15 THE WITNESS: You'll always
16 have customers that are above an
17 average in any business.
18 BY MR. PAPANTONIO:
19 Q. All right. Well, sir,
20 whatever it was, the DEA looked at it,
21 and they decided that along with you
22 filing to report 318 suspicious orders,
23 now they're taking a look at -- let's
24 take a look at averages of how much

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1 McKesson -- how many narcotic drugs
 2 McKesson was sending around this country
 3 where a pharmacy was exceeding a monthly
 4 average, right? That's what this is
 5 doing, right?
 6 MS. HENN: Objection to
 7 form.
 8 THE WITNESS: Right.
 9 BY MR. PAPANTONIO:
 10 Q. That's the second part.
 11 Now, you know what, I said
 12 one million a minute ago. They wanted to
 13 fine you one billion. \$1,222,880,000 for
 14 this thing that you just described as --
 15 shouldn't be a problem, right?
 16 A. No, I didn't say that.
 17 Q. Oh, it is a problem?
 18 A. No, I didn't say that
 19 either. I didn't say it was a problem.
 20 I didn't say it wasn't a problem.
 21 Q. Well, you --
 22 A. What I said was I broke it
 23 out to what it equated to per day in the
 24 amount of orders.

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1 Q. And after the DEA finally
 2 got this information that you had been
 3 not -- where information that you had not
 4 been disclosing to them about ten
 5 pharmacies, they do an analysis, right?
 6 A. Mm-hmm.
 7 Q. They do an analysis and they
 8 find that 318 times you violated the law
 9 by not reporting suspicious orders.
 10 That's the first thing they find.
 11 Do you remember that?
 12 A. Mm-hmm.
 13 Q. The second thing they find,
 14 is they want to -- they want to propose a
 15 fine of \$1,222,880,000 for your conduct.
 16 Do you see that?
 17 MS. HENN: Objection to
 18 form.
 19 BY MR. PAPANTONIO:
 20 Q. Did I get that right?
 21 A. That is the number on Line
 22 2, yes.
 23 Q. Okay. Let's go to the next
 24 page. Now, this is oxycodone here?

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1 Do you see that?
 2 MS. HENN: Page 24?
 3 MR. PAPANTONIO: I'm on Page
 4 24.
 5 MS. HENN: Are you on
 6 hydrocodone?
 7 THE WITNESS: Hydrocodone.
 8 BY MR. PAPANTONIO:
 9 Q. I'm sorry. Hydrocodone. So
 10 we start off with oxycodone was the
 11 analysis. For example -- hey, I meant to
 12 ask you, is oxycodone addictive?
 13 A. I'm not a doctor. But from
 14 what I've read, it is addictive.
 15 Q. Yeah. And you know that the
 16 people that you're buying from are
 17 Purdue, right, Purdue Pharmacy?
 18 A. Purdue is one of the
 19 manufacturers that we sold, yes.
 20 Q. And you know that while you
 21 were selling this product, you were aware
 22 that Purdue had been fined multi-million
 23 dollars for lying about the addictive
 24 nature of oxycodone. You know that,

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1 right?
 2 MS. O'GORMAN: Object to
 3 form.
 4 BY MR. PAPANTONIO:
 5 Q. Did you not know that?
 6 A. I knew that Purdue had
 7 lawsuits against it regarding its
 8 marketing practices.
 9 Q. Right.
 10 A. I don't follow that
 11 particularly closely to see, you know,
 12 whether they were found guilty and paid
 13 fines. I'm busy with my McKesson
 14 responsibilities.
 15 Q. Sir, you're buying narcotic
 16 drugs from Purdue, correct? We can agree
 17 to that, as you just said. You know
 18 that --
 19 A. McKesson does, yes.
 20 Q. And yours --
 21 A. We deal with multiple
 22 wholesale manufacturers.
 23 Q. And second of all, you're
 24 aware as you are buying those narcotic

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1 drugs, that Purdue had been sued for --
 2 for lying about the addictive nature of
 3 the drugs that you're distributing for
 4 them, right.
 5 MS. O'GORMAN: Object to
 6 form.
 7 BY MR. PAPANTONIO:
 8 Q. You know that?
 9 A. As I said, I was aware that
 10 they were being sued, yes.
 11 Q. And you know that it had to
 12 do with the fact that they were lying to
 13 the American public about the addictive
 14 nature of their drugs that they were
 15 selling to you.
 16 MS. O'GORMAN: Objection.
 17 BY MR. PAPANTONIO:
 18 Q. Right?
 19 A. Again, I know there was
 20 legal matters against Purdue. I didn't
 21 really follow them to know whether or
 22 not, you know, they were paid fines in
 23 that case.
 24 Q. Sir, you knew when you were

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1 distributing their drugs as their
 2 distributor, you clearly understood that
 3 they had been fined for lying about the
 4 addictive nature of their drugs,
 5 OxyContin and oxycodone. You knew that
 6 didn't you?
 7 MS. O'GORMAN: Objection to
 8 form.
 9 THE WITNESS: I would say
 10 that I learned of it.
 11 BY MR. PAPANTONIO:
 12 Q. All right. And is it --
 13 sir, as somebody that's involved with
 14 actually regulatory matters, that's
 15 pretty important to know that the people
 16 that you're buying -- the people you're
 17 buying narcotics from are out there
 18 telling the American public, that, "Hey,
 19 this stuff just ain't that addictive."
 20 That's pretty information, isn't it?
 21 A. That's important, yes.
 22 Q. Yeah, and you knew that the
 23 full time that you were a distributor
 24 with this company, didn't you?

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1 MS. HENN: Objection to
 2 form.
 3 THE WITNESS: Not the
 4 full-time, no. I said I learned
 5 of it.
 6 MS. HENN: Counsel, we've
 7 been going another hour. So I
 8 would suggest another ten-minute
 9 break.
 10 MR. PAPANTONIO: That's
 11 fine. If you'd like to, Ms. Henn,
 12 we'll take a ten-minute break.
 13 THE VIDEOGRAPHER: The time
 14 is 11:35 a.m. Going off the
 15 record.
 16 (Short break.)
 17 THE VIDEOGRAPHER: We are
 18 back on the record. The time is
 19 11:46 a.m.
 20 BY MR. PAPANTONIO:
 21 Q. You ready? Okay. Sir,
 22 let's go -- let's go back to what we're
 23 talking about here. I want to focus a
 24 little bit on this \$1,222,880,000

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1 proposed fine for what McKesson had done.
 2 The was this -- was this
 3 built into the business plan as far as
 4 you know? In other words, did McKesson
 5 understand we can pay this kind of money
 6 and still make a profit, we can pay these
 7 fines and still make a profit?
 8 MS. HENN: Objection to
 9 form.
 10 BY MR. PAPANTONIO:
 11 Q. Was that -- as far as you
 12 know, was there any discussion about
 13 well, you know, we can pay one billion,
 14 we can pay \$700 million, all this list of
 15 fines here? Was there a discussion that,
 16 yeah, we're making so much money, we can
 17 pay that kind of money and still make a
 18 profit?
 19 MS. HENN: Objection to
 20 form.
 21 THE WITNESS: In my area of
 22 responsibility in regulatory, I
 23 did not get involved with profit
 24 and loss.

<p style="text-align: right;">Page 222</p> <p>1 BY MR. PAPANTONIO: 2 Q. Okay. But this -- these are 3 the proposed findings. You see them, 4 right? 5 A. Yes, I see them. 6 Q. Okay. Would you please 7 go -- let's go to Page 26. That's 8 Accokeek. You're familiar with Accokeek. 9 Am I saying -- 10 A. Accokeek. 11 Q. Accokeek. 12 A. Accokeek. 13 Q. Okay. That's Page 26. And 14 go to the next page right after that, 15 Page 27. 16 A. Okay. 17 Q. It says up at the top, 18 "Failure to report," and we're talking 19 about suspicious orders, right? 20 A. Mm-hmm. 21 Q. It says November 29th they 22 failed to report 40 suspicious orders. 23 November they were -- failure to report. 24 This is just on Accokeek, by -- Accokeek</p>	<p style="text-align: right;">Page 224</p> <p>1 MS. HENN: Objection to 2 form. 3 THE WITNESS: Yes. They're 4 saying 40 times. Again, I don't 5 know what the reference 40 refers 6 to, whether that's an item, a line 7 item on an order, or 40 orders in 8 a day. That -- I'm not sure what 9 the 40 references. 10 BY MR. PAPANTONIO: 11 Q. Okay. We'll clear that up 12 as this goes on. 13 But it says, it says then 14 December failed to report 12. 15 December 6th, failed to report 27 16 suspicious orders. December 7th. 17 This is just Accokeek. 18 Do you see that? 19 A. Yes. 20 Q. Accokeek. And this Number 21 7, failure to report 33. December 8th 22 failed to report 38. 23 And each time they failed to 24 report that, you understand sir that that</p>
<p style="text-align: right;">Page 223</p> <p>1 by the way. 2 40 times there was a failure 3 to report suspicious orders on Accokeek. 4 Do you see that? 5 MS. HENN: Objection to 6 form. 7 BY MR. PAPANTONIO: 8 Q. Do you see that? 9 A. I see the 40. I'm wondering 10 what they're determining -- like 40 11 orders on one day? 12 Q. Sir, it just says the 13 date -- 14 A. Yeah, it says 40. But I 15 don't know what the 40 references. 16 Q. Well, it says failure to 17 report 40 times. And you understand 40 18 times, if they failed to report 40 times, 19 each time is -- they're actually 20 violating the law? 21 MS. HENN: Objection to 22 form. 23 BY MR. PAPANTONIO: 24 Q. You understand that, right?</p>	<p style="text-align: right;">Page 225</p> <p>1 is actually a violation of the law. It's 2 actually breaking the law. 3 MS. HENN: Objection to 4 form. 5 BY MR. PAPANTONIO: 6 Q. Correct? 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: That's what 10 this report is showing. Yes. 11 BY MR. PAPANTONIO: 12 Q. And one reason that that law 13 is so stringent is because we're selling 14 narcotics to the American public, 15 correct? 16 A. We're selling them to 17 Accokeek, yes. 18 Q. Yeah, and Accokeek is 19 selling them to the American public? 20 A. Yes. 21 Q. And you understand one 22 reason you were given that McKesson was 23 given the right to actually sell this 24 drug is that you were supposed to police</p>

<p style="text-align: right;">Page 226</p> <p>1 these type of problems, McKesson was? 2 MS. HENN: Objection to 3 form. 4 BY MR. PAPANTONIO: 5 Q. Right? 6 A. We are responsible to have a 7 controlled substance monitoring program 8 in place, yes. 9 Q. Would you go to page 29, 10 please. And here's some more about 11 Accokeek. Accokeek. And this was your 12 account, true? 13 A. Yes. 14 Q. It says -- now, when did you 15 start with them? When did you start 16 there at Landover? 17 A. It would have been late 18 2007. 19 Q. Okay. So in 2007 when you 20 started, they were only selling 389,700 21 oxycodone. 22 Do you see that? 23 A. Yes. 24 Q. And then by 2011 when this</p>	<p style="text-align: right;">Page 228</p> <p>1 71 percent increase in population there 2 in Maryland? 3 A. I don't know what the 4 population change was. 5 Q. Was there something that 6 where -- so you're not able to tell me 7 anything that really happened in that 8 area where Accokeek sold drugs that 9 really should have caused it to go 10 from -- to make a 71 percent increase in 11 sales, right? 12 MS. HENN: Objection to 13 form. 14 THE WITNESS: The pharmacy 15 would have had a business growth 16 in their -- in their number of 17 scripts and in their pharmacy 18 sales. So they -- they had a 19 business growth. 20 It would have went through 21 a -- what we call a threshold 22 change request and a review to see 23 whether or not the pharmacy should 24 be granted an increase over what</p>
<p style="text-align: right;">Page 227</p> <p>1 investigation by the DEA started, they've 2 increased that from -- they're increased 3 that 71 percent in sales of just 4 oxycodone alone, correct? 5 MR. PAPANTONIO: Can you 6 underline oxycodone for me, Evan. 7 BY MR. PAPANTONIO: 8 Q. That's just oxycodone we're 9 talking about? 10 A. Yes, they increased over the 11 five years. 12 Q. And 71 percent increase. 13 Now, are you familiar -- was 14 there some -- was there some huge 15 catastrophe that took place around where 16 this Accokeek Drug Healthcare is? I 17 mean, do you know where the town is? 18 A. It's located in Maryland. 19 Q. Was there some big 20 catastrophe where people were injured or 21 anything like that that happened between 22 2007 and 2011? 23 A. I don't believe there was. 24 Q. Was there -- was there</p>	<p style="text-align: right;">Page 229</p> <p>1 their current threshold was 2 established at. So there would 3 have been a review by myself and a 4 determination made whether or not 5 their oxycodone should have been 6 increased. 7 BY MR. PAPANTONIO: 8 Q. Increased 71 percent. If 9 you look at hydrocodone, that was 10 increased 185 percent between 2007 and 11 2011. That's what that document says, 12 right? 13 A. Yeah. The 71 percent was 14 over four years. 15 Q. And this is 185 percent over 16 four years, correct? 17 A. Yes. In the hydrocodone, it 18 went from 11 to 41 over four years. 19 Q. And which of those two 20 drugs, oxycodone or hydrocodone, have the 21 biggest impact? Which one is the 22 stronger narcotic? 23 A. Oxycodone. 24 Q. Oxycodone. Okay. And</p>

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1 you've got -- you've got oxymorphone that
 2 had 132 percent increase, right?
 3 A. Right.
 4 Q. And this is while you were
 5 there. They went from selling 400 --
 6 they went from selling 400 oxymorphone to
 7 selling 24,400 oxymorphone, correct?
 8 A. That is correct. They would
 9 have been getting more scripts from
 10 doctors prescribing it.
 11 Q. Mm-hmm. Let's go to the
 12 next page. That is Page 31. Oh, no is
 13 it 30?
 14 A. 30.
 15 Q. So this says, "Accokeek Drug
 16 Healthcare number of oxycodone sales
 17 transactions with dosage units exceeding
 18 the monthly average."
 19 Do you see that?
 20 So while they were growing
 21 their business, as you described, they --
 22 you had 2,271 times that the transactions
 23 they were involved with, exceeded three
 24 times the monthly average, right?

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1 MS. HENN: Objection to
 2 form.
 3 BY MR. PAPANTONIO:
 4 Q. That's what that says,
 5 right?
 6 MS. HENN: Objection to
 7 form.
 8 BY MR. PAPANTONIO:
 9 Q. That's what that says,
 10 right?
 11 MS. HENN: Objection to
 12 form.
 13 THE WITNESS: That's what
 14 the document shows, yes.
 15 BY MR. PAPANTONIO:
 16 Q. And that as they were
 17 growing their business, as you described
 18 there at Accokeek, four -- 1,797 times
 19 they had transactions that exceeded their
 20 monthly average by four times.
 21 MS. HENN: Objection to
 22 form.
 23 BY MR. PAPANTONIO:
 24 Q. Correct?

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1 A. It would not have been their
 2 monthly average. It would have been the
 3 average pharmacy.
 4 Q. Yeah. That's what I'm
 5 saying. Okay. The average pharmacy.
 6 A. Yeah.
 7 Q. In other words, a pharmacy
 8 doing a regular business, day to day,
 9 this -- the number of drugs, narcotic
 10 drugs that they're selling is three times
 11 that average, and that's 2,271 times they
 12 exceeded three times. And then four
 13 times they are selling their narcotics --
 14 these are your narcotics, right?
 15 MS. HENN: Objection to
 16 form.
 17 BY MR. PAPANTONIO:
 18 Q. These are McKesson
 19 narcotics, right?
 20 A. It's oxycodone sales.
 21 Q. Yeah. 1,797 right,
 22 transactions, where they exceeded the
 23 average pharmacy by four times. That's
 24 what it says, correct?

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1 A. Yes. They were -- they were
 2 a high volume larger pharmacy. Above the
 3 average.
 4 Q. All right. And so
 5 ultimately they were closed down, right?
 6 A. Ultimately McKesson -- a
 7 decision was made by me that ceased
 8 selling controls to them, yes.
 9 Q. And how many years did it
 10 take you to make that decision?
 11 A. I don't know when they first
 12 started. But whenever the date that I
 13 closed them, I don't have that, I'm sure
 14 it's in here when Accokeek was closed.
 15 They would have been reviewed, since I
 16 took the position in 2007, so it would
 17 have been a couple years' review.
 18 Q. And we all -- as we saw,
 19 they increased their business -- we saw
 20 clearly, oxy -- I mean, hydrocodone
 21 alone, they increased their business
 22 185 percent during the time that you were
 23 there, correct?
 24 MS. HENN: Objection to

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1 form.
 2 THE WITNESS: Yeah, they
 3 would have been receiving
 4 prescriptions from doctors,
 5 writing for hydrocodone. That
 6 increased from seven -- 2007 to
 7 2011.
 8 BY MR. PAPANTONIO:
 9 Q. During while they were doing
 10 all of that, if you were comparing what
 11 they were doing with the average pharmacy
 12 here in America, they committed 2,271
 13 transactions that exceeded the typical
 14 average pharmacy by three times, right?
 15 A. That's what the document is
 16 showing, yes. They were a large
 17 pharmacy, large volume pharmacy.
 18 Q. Okay. And they were a large
 19 pharmacy when you decided to stop doing
 20 business with them, right?
 21 A. They were, yes.
 22 Q. And oxycodone was a Purdue
 23 product; is that right?
 24 A. I don't believe so.

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1 Oxycodone is the generic. Purdue product
 2 is OxyContin.
 3 Q. OxyContin, right. And
 4 that's -- OxyContin is the one that
 5 Purdue lied about as far as -- as far as
 6 its addictive nature, correct?
 7 MS. HENN: Objection to
 8 form.
 9 MS. O'GORMAN: Same
 10 objection.
 11 THE WITNESS: I'm not --
 12 not -- I can't speak for what
 13 Purdue said or did.
 14 BY MR. PAPANTONIO:
 15 Q. Sir, you don't think you
 16 have a responsibility selling narcotics
 17 during a period of time where there is an
 18 opioid crisis going on in the United
 19 States, and you're buying from a company
 20 that has been hit for -- has been fined
 21 for lying about the qualities of their
 22 product. That's not important to you as
 23 a regulator?
 24 MS. O'GORMAN: Objection.

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1 THE WITNESS: No, I didn't
 2 say that. I take my job very
 3 seriously. I take my
 4 responsibility very seriously.
 5 I said that I could not
 6 speak for what Purdue did or
 7 didn't do or said or didn't say.
 8 Obviously if any controlled
 9 substance has an addictive policy,
 10 DEA schedules them two through
 11 five, the lower the number the
 12 more addictive.
 13 So whether it's a Schedule
 14 II drug through a Schedule V drug,
 15 they all have benefits when used
 16 appropriately, and they all have,
 17 you know, problems where they can
 18 be abused.
 19 So I knew that a Schedule II
 20 drug obviously has a potential for
 21 more abuse than a Schedule V drug.
 22 So yes, I was aware of the
 23 potential, if not taken, you know,
 24 for medical purposes, that they

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1 could be abused.
 2 BY MR. PAPANTONIO:
 3 Q. In other words, you wouldn't
 4 go out and buy narcotics from Pablo
 5 Escobar without understanding Pablo
 6 Escobar and the cartel is selling you,
 7 right? You want to know what they are
 8 selling you, true?
 9 MS. HENN: Objection to
 10 form.
 11 THE WITNESS: Sir, I
 12 won't -- I won't speculate on
 13 that.
 14 BY MR. PAPANTONIO:
 15 Q. Yeah. Well, if you've got a
 16 company that's manufacturing a product
 17 and they're lying about how addictive the
 18 product is, that's a problem you want to
 19 know about, right?
 20 MS. HENN: Objection to
 21 form.
 22 BY MR. PAPANTONIO:
 23 Q. Because you're selling a lot
 24 of drugs.

<p style="text-align: right;">Page 238</p> <p>1 MS. O'GORMAN: Same 2 objection. 3 THE WITNESS: I was 4 responsible for monitoring what 5 stores are purchasing. And that I 6 did. 7 As far as if the customer -- 8 the manufacturer and the 9 truthfulness of what they're 10 portraying, I did not get involved 11 with that, because the -- the 12 product has a medical purpose if 13 used correctly for medical 14 reasons. 15 BY MR. PAPANTONIO: 16 Q. All right. Let's go to the 17 next -- let's go to the next slide. This 18 is the next page. This is 31. This is 19 Accokeek Drug Healthcare. 20 Do you see that? 21 A. Yes. 22 Q. You see that? That line 23 goes straight up in the air. 24 Do you see that? Or angle.</p>	<p style="text-align: right;">Page 240</p> <p>1 incentive -- you had an incentive program 2 that salespeople were actually making 3 more money if they sell more drugs, 4 right? 5 MS. HENN: Objection to 6 form. 7 THE WITNESS: When you said 8 "you," I am not on an incentive 9 program. 10 The salespeople are 11 compensated on total sales of a 12 pharmacy, not just the controlled 13 substances. 14 BY MR. PAPANTONIO: 15 Q. If they say more product, 16 they make more money, yes or no, 17 salespeople? 18 A. Salespeople are on 19 commission, yes. 20 Q. And if you were CEO, the 21 fellow we saw raise his right hand and 22 testify in front of Congress, if he has 23 the company selling more drugs, he's 24 making more money, right?</p>
<p style="text-align: right;">Page 239</p> <p>1 MS. HENN: Objection to 2 form. 3 BY MR. PAPANTONIO: 4 Q. Do you see the angle on 5 that. That is -- that is dosage units 6 that are being sold out of one pharmacy 7 that you were selling drugs to, correct? 8 That's just for oxycodone? 9 A. Yes. And this appears that 10 the dosage units cover a year's time; is 11 that correct? 12 Q. Right. And as you're 13 selling that -- as you're selling that 14 product, your sales are going up, right? 15 As they are selling more drugs, your 16 sales are going up, correct? 17 A. Sales would have increased. 18 But as I said, I don't get involved with 19 the dollars and cents. I'm looking at 20 their overall Rx business and then the 21 amount of controls to non-controls that 22 they are doing. I did not look at 23 dollars. I looked at dosages. 24 Q. Okay. But you're on</p>	<p style="text-align: right;">Page 241</p> <p>1 A. It would -- it would appear 2 that total -- total sales of the company 3 would be, you know, included. 4 Again the controlled 5 substances are a very small part of our 6 total sales. 7 Q. And if you take -- if you 8 take one of your customers offline, you 9 take a pharmacy like Accokeek offline, 10 you're actually losing sales, aren't you? 11 A. We would be losing sales. 12 But as you saw, we did take them offline. 13 Q. Yeah, after how many years? 14 A. It looks like -- well, for 15 me, from '7 through, I guess, '11. 16 Q. So from 2007 to 2011 during 17 a time where they had a 185 percent 18 increase in one of their sales of their 19 narcotic drugs, between that time you let 20 them continue selling drugs, right? 21 A. I allowed them to continue 22 to purchase from McKesson, yes. 23 Q. And then in 2011, when the 24 DEA comes and says, "Let me see the</p>

<p style="text-align: right;">Page 242</p> <p>1 records," that's when you took them 2 offline, correct? 3 MS. HENN: Objection to 4 form. 5 THE WITNESS: As I stated 6 earlier, my review of Accokeek was 7 not predicated upon the DEA's 8 request for information. 9 My job at Landover was to 10 review customers continuously, and 11 I did it on a daily basis. 12 Accokeek was one of several 13 of our top purchasers that I would 14 have been reviewing, going out to 15 make a site visit, looking at the 16 analysis of data of what they're 17 purchasing. 18 And then as I stated, in 19 2011, made a determination to 20 close the pharmacy. 21 BY MR. PAPANTONIO: 22 Q. Well, let's look on the Drug 23 Pharmacy. That's Page 34. That's 24 another one of your customers, right?</p>	<p style="text-align: right;">Page 244</p> <p>1 times. 2 Do you see that? 3 MS. HENN: Objection to 4 form. 5 THE WITNESS: I do. As I 6 stated earlier, I'm not sure if 7 that's orders or lines or what 8 that number references. It 9 doesn't say. 10 BY MR. PAPANTONIO: 11 Q. It was important enough, 12 though, that the DEA was ready to fine 13 you, fine McKesson for your conduct with 14 Drug City Pharmacy, right? 15 MS. HENN: Objection to 16 form. 17 THE WITNESS: Yes. I'm just 18 stating that it doesn't say orders 19 on here for me to agree or 20 disagree. 21 BY MR. PAPANTONIO: 22 Q. And so let look at this. 23 Let's see if we can find a pattern here. 24 They got -- go to Slide Number 37.</p>
<p style="text-align: right;">Page 243</p> <p>1 Drug Pharmacy. 2 A. Drug City, yes. 3 Q. Drug City. Yeah. You were 4 hands-on with them. You knew who was 5 running it. You showed up, shook their 6 hand, right? 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: I visited the 10 pharmacy, yes. 11 BY MR. PAPANTONIO: 12 Q. Mm-hmm. Let's look at this 13 one. This is -- this is -- now we're 14 going to move from Accokeek and we're 15 going to move to another one. It's 16 called Drug City, Drug City Pharmacy. 17 And so it says on Drug City, 18 they begin by saying, "Let's look at the 19 failure to report" -- report suspicious 20 orders, right? Drug City Pharmacy. 21 And then it goes -- it tells 22 you the number of times that the Drug 23 City failed to report. It gives you a 24 whole list. 18 times, 13 times, 10</p>	<p style="text-align: right;">Page 245</p> <p>1 Now, here we have oxy -- 2 this is Drug City Pharmacy. One of 3 your -- one of the people that you dealt 4 with directly. Talking about oxycodone 5 and oxymorphone, right? In 2007 6 oxycodone, and you say that's -- excuse 7 me 2007, they were selling 1,281,700 8 doses there, right? 9 A. Yes. 10 Q. And then by 2011 they'd 11 increased 33 percent to 3,083,600. 12 Do you see that? 13 A. Yes. This is -- 14 Q. That -- 15 A. -- one of my larger accounts 16 that I monitored. 17 Q. Yeah. And let's talk 18 about -- let's go to the next page, after 19 looking at that increase. Let's see the 20 number of times that the sales 21 transaction with the dosage exceeded the 22 monthly pharmacy average. In other 23 words, let's compare them to other 24 pharmacies?</p>

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1 A. This customer, Drug City,
2 was the largest customer in that
3 distribution center.
4 Q. Mm-hmm. I know. But let's
5 still talk about --
6 A. It certainly would have been
7 above the average.
8 Q. Let's talk about it.
9 A. Okay.
10 Q. Because you were -- McKesson
11 was making a lot of money on Drug City
12 Pharmacy, right?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: I -- again, I
16 don't look at the dollars at a
17 pharmacy. I'm not in sales.
18 BY MR. PAPANTONIO:
19 Q. Yeah, and --
20 A. So I have no idea how much
21 they're spending with us. I just know
22 volumewise, dosages, they were the
23 largest customer I had out of Landover.
24 Q. Okay. And as a matter of

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1 fact they were so bad -- so big, if you
2 look at this document, Number 38, 30
3 times -- now, it's saying there were 914
4 transactions where the pharmacy was
5 exceeding the average pharmacy by 30
6 times the number of drugs -- number of
7 narcotics they were selling, right?
8 A. That's what this is showing.
9 Q. 30 times, right? Let's look
10 at the next page.
11 A. And is that 30 times over
12 the four-year period?
13 Q. Sir, I think the way it's
14 looking, it might be. Yeah, but how
15 about the top. You want to talk about a
16 four-year period.
17 Thanks for interrupting me
18 there.
19 Look at the times that they
20 exceeded four times the average --
21 national average for pharmacies was 9,014
22 transactions where they exceeded the
23 averages by four times.
24 Do you see that?

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1 A. Yeah, it's here.
2 Q. And Drug City was closed
3 down also, wasn't it, after the DEA asked
4 you to provide information about their
5 files, give the DEA the information, they
6 were closed down after that too, weren't
7 they?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: Drug City
11 was -- had their threshold reduced
12 initially. And then eventually
13 they were closed from a McKesson
14 customer.
15 It was not right after the
16 DEA inquiry.
17 Again, I looked at the top
18 customers that I had.
19 Every customer here that
20 we're talking about was one of my
21 top volume customers. So I would
22 have been looking at them even
23 without the DEA included.
24 BY MR. PAPANTONIO:

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1 Q. Let's go to Page 40 there on
2 Drug City. Let's talk about how -- this
3 is their sales. Do you see those dosage
4 units, how it goes straight up. 2007,
5 2011, straight up, right?
6 And as that straight up,
7 sales for McKesson went straight up too,
8 of selling narcotics there at that drug
9 store, right?
10 A. Again, I don't deal with
11 sales. But yes, if you're selling more
12 and requesting, again, this means that
13 they would have been receiving more
14 prescriptions written by doctors for that
15 medication.
16 Q. Now, I saved this last one.
17 Go to Page 40. I saved this last one for
18 right now because you wanted to talk
19 about Herndon and what you had done with
20 Herndon Pharmacy, how you were performing
21 your investigation. Do you remember we
22 were talking about that a while ago?
23 A. Yeah. Herndon was one that
24 we spoke, yes.

<p style="text-align: right;">Page 250</p> <p>1 Q. Yeah. Right. And that's 2 one that closed down, that you stopped 3 doing business with them, after the DEA 4 asked for information -- 5 MS. HENN: Objection to 6 form. 7 BY MR. PAPANTONIO: 8 Q. -- about their sales, true? 9 MS. HENN: Objection to 10 form. 11 THE WITNESS: They -- 12 Herndon Pharmacy is a pharmacy 13 that I closed based off of their 14 purchasing, yes. 15 BY MR. PAPANTONIO: 16 Q. All right. And then if you 17 will go to Page 43 there. Let's see what 18 the DEA said -- had to say when they 19 looked at these files. 20 Do you see where it says, 21 "Failure to report, Herndon Pharmacy"? 22 Do you see that? 23 A. Yes. 24 Q. It says, "Clearly, McKesson</p>	<p style="text-align: right;">Page 252</p> <p>1 Do you understand? Now they have all the 2 records. They've asked for them, and 3 they've been given over by McKesson. 4 Let's see what they find. 5 A. They would have had the 6 records prior to that even in their ARCOS 7 reporting. 8 Q. Well, they must not have had 9 all of them, because they asked you for 10 your files to see if what your company 11 was doing was consistent with what they 12 were reporting, right? 13 MS. HENN: Objection to 14 form. 15 BY MR. PAPANTONIO: 16 Q. In other words, your company 17 could be make -- phonying up records. 18 They don't know that. 19 MS. HENN: Objection to 20 form. 21 BY MR. PAPANTONIO: 22 Q. Your company could be 23 phonying up records left and right. 24 That's what they're trying to find out</p>
<p style="text-align: right;">Page 251</p> <p>1 identified suspicious orders on or before 2 August 19th" -- excuse me -- "August 19, 3 2011." 4 Did I read that right? 5 A. That's what it says there. 6 Yes. 7 Q. All right. And it says, "No 8 suspicious orders were submitted to the 9 DEA until November" -- "until 10 November 15, 1911 (sic)." So -- is that 11 right? 12 MS. HENN: Objection to 13 form. 14 THE WITNESS: That's what 15 it's saying here. I don't know 16 what they're basing the 17 identification of the suspicious 18 orders on or before August 19th 19 on. 20 BY MR. PAPANTONIO: 21 Q. Well, let's see. Let's see, 22 because now, by now, they have the 23 records. They finally can review the 24 records of these -- of Herndon Pharmacy.</p>	<p style="text-align: right;">Page 253</p> <p>1 here, right? 2 MS. HENN: Objection to 3 form. 4 THE WITNESS: I don't know 5 what they are trying to find out. 6 But I know monthly it's a 7 requirement that we send into DEA 8 ARCOS reporting, so they would 9 have had Herndon Pharmacy's 10 purchases every month. 11 BY MR. PAPANTONIO: 12 Q. Unless McKesson is phonying 13 up the records and not telling them the 14 truth, right? 15 MS. HENN: Objection to 16 form. 17 THE WITNESS: I can't speak 18 on that, sir. 19 BY MR. PAPANTONIO: 20 Q. All right. And it says, 21 "McKesson found Herndon's" -- "Herndon's 22 orders suspicious well before 23 August 19th." 24 Do you see that?</p>

<p style="text-align: right;">Page 254</p> <p>1 A. Yeah, it's the third bullet.</p> <p>2 Q. Yeah, it says as a matter of</p> <p>3 fact, they found them suspicious -- it</p> <p>4 says July 27, 2011, right?</p> <p>5 MS. HENN: Objection to</p> <p>6 form.</p> <p>7 BY MR. PAPANTONIO:</p> <p>8 Q. I want you to look at this</p> <p>9 very carefully before we go to the next</p> <p>10 page. You correct anything that you want</p> <p>11 to correct on this page right now. Okay.</p> <p>12 You understand that the DEA is saying</p> <p>13 that you had clear information that there</p> <p>14 were suspicious orders taking place</p> <p>15 before August 19th, right? Didn't you</p> <p>16 tell me that you did this investigation</p> <p>17 yourself?</p> <p>18 A. Yeah, I visited the</p> <p>19 pharmacy.</p> <p>20 Q. Okay. And apparently you</p> <p>21 did not report the August 19th -- you did</p> <p>22 not report suspicious orders till</p> <p>23 July 27, 2011, right? That's what this</p> <p>24 is saying.</p>	<p style="text-align: right;">Page 256</p> <p>1 investigation?</p> <p>2 MS. HENN: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: I did not make</p> <p>5 that comparison to the national</p> <p>6 average.</p> <p>7 BY MR. PAPANTONIO:</p> <p>8 Q. Do you remember telling us</p> <p>9 about Dr. Salerian?</p> <p>10 A. Yes.</p> <p>11 Q. Didn't you mention</p> <p>12 Dr. Salerian?</p> <p>13 A. I did.</p> <p>14 Q. And as a matter of fact, you</p> <p>15 knew that a search warrant had been</p> <p>16 issued to Dr. Salerian before you ever</p> <p>17 started your investigation, didn't you?</p> <p>18 A. I am not certain of that.</p> <p>19 Q. Well, let's look. Let's go</p> <p>20 to Page 46. You talked about how you</p> <p>21 did -- you looked at what Dr. Salerian</p> <p>22 was doing. You looked at what other</p> <p>23 pharmacies were doing around him. Do you</p> <p>24 remember that big explanation you gave me</p>
<p style="text-align: right;">Page 255</p> <p>1 A. That's what it's saying. I</p> <p>2 don't know if I had a suspicious order</p> <p>3 prior to that.</p> <p>4 MS. HENN: Objection to</p> <p>5 form.</p> <p>6 BY MR. PAPANTONIO:</p> <p>7 Q. Well, okay. We either</p> <p>8 believe the DEA or we don't. Do you</p> <p>9 believe them, that you failed to report</p> <p>10 suspicious orders?</p> <p>11 A. That is what they are</p> <p>12 stating, yes.</p> <p>13 Q. Okay. That's all we can</p> <p>14 accomplish. They -- as a matter of fact,</p> <p>15 if you go to Page 45, it says Herndon</p> <p>16 Pharmacy, number of oxycodone sales</p> <p>17 transactions exceeding the monthly</p> <p>18 pharmacy averages. It even gives us</p> <p>19 that. Look what it says.</p> <p>20 Do you see those numbers?</p> <p>21 We are talking about transactions, 124</p> <p>22 transactions that exceeded the averages</p> <p>23 by three times the national average. Do</p> <p>24 you see that? Did you find that in your</p>	<p style="text-align: right;">Page 257</p> <p>1 about how your investigation was taking</p> <p>2 place?</p> <p>3 MS. HENN: Objection to</p> <p>4 form.</p> <p>5 THE WITNESS: Yeah, I gave</p> <p>6 you the details of what I did in</p> <p>7 my due diligence.</p> <p>8 BY MR. PAPANTONIO:</p> <p>9 Q. Well, you know, sir, don't</p> <p>10 you, that a search warrant had already</p> <p>11 been issued to Dr. Salerian before you</p> <p>12 did the first thing? You know that.</p> <p>13 MS. HENN: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: How do I know</p> <p>16 that, sir?</p> <p>17 BY MR. PAPANTONIO:</p> <p>18 Q. Well, you get a report of</p> <p>19 any search warrants that go out.</p> <p>20 A. From who?</p> <p>21 Q. From the DEA. If they're</p> <p>22 doing a search warrant, you have a right</p> <p>23 to get a report, correct?</p> <p>24 MS. HENN: Objection to</p>

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1 form.
2 THE WITNESS: I have not
3 seen that information prior to
4 what I'd reviewed.
5 BY MR. PAPANTONIO:
6 Q. All right. So why don't you
7 take a look at Page 46 and tell me what
8 you found about Dr. Salerian and when you
9 reported any of this material that we are
10 talking about here about Dr. Salerian.
11 He ran a pill mill, didn't he?
12 MS. HENN: Objection to
13 form.
14 THE WITNESS: I don't know
15 if he ran a pill mill.
16 My suspicion was based off
17 the fact that he was a
18 psychiatrist writing for
19 oxycodone, and the distance from
20 his pharmacy -- excuse me, from
21 his practice to the pharmacy.
22 BY MR. PAPANTONIO:
23 Q. And he had people driving in
24 from West Virginia that were going, a

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1 part the oxy express, to buy narcotics
2 that your company, McKesson, was selling
3 to Dr. Salerian. Had people driving in
4 from West Virginia to do that, right?
5 MS. HENN: Objection to
6 form.
7 THE WITNESS: We weren't
8 selling to Dr. Salerian.
9 BY MR. PAPANTONIO:
10 Q. Who were you selling to?
11 A. Herndon Pharmacy.
12 Q. Okay. And how does Dr.
13 Salerian fit into that?
14 A. Dr. Salerian was the doctor
15 writing the prescriptions that were
16 getting filled at Herndon Pharmacy. But
17 we were not selling to Dr. Salerian.
18 Q. Okay. Got it. So you're
19 saying I didn't sell to Dr. Salerian
20 directly, but you know that Dr. Salerian
21 was buying all of these -- all of these
22 drugs that you were selling to Herndon.
23 You knew that?
24 MS. HENN: Objection to

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1 form.
2 THE WITNESS: Dr. Salerian
3 wasn't buying any drugs. He was
4 writing prescriptions.
5 BY MR. PAPANTONIO:
6 Q. Writing prescriptions.
7 Okay. Well, let's --
8 however you want -- let's say writing
9 prescriptions.
10 Tell us what red flags you
11 saw about Dr. Salerian and when you saw
12 them?
13 A. Okay. The exact time that I
14 saw them, I don't recall, but what I saw
15 was the distance from the doctor's office
16 to the pharmacy. He was in D.C. The
17 pharmacy is in Herndon, Virginia. It was
18 a distance.
19 His practice, he was a
20 psychiatrist writing for oxycodone. The
21 amount of prescriptions that he -- both
22 in quantity and the number of scripts
23 percentage that he made up at Herndon
24 Pharmacy, he was the top prescribing

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1 doctor for the scripts that were getting
2 filled at Herndon Pharmacy.
3 Q. And how many years was he
4 getting away with that? While this was
5 your watch, how many years was
6 Dr. Salerian getting away with what you
7 just described?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: I don't know
11 the exact time that Herndon opened
12 and I closed him. So I can't say.
13 I don't have that information in
14 front of me.
15 BY MR. PAPANTONIO:
16 Q. We've already established
17 that you closed them after the DEA asked
18 for the records. That's when you closed
19 them, right?
20 A. I closed them when I
21 concluded my review. I don't have the
22 dates when I started and when I ended.
23 My review may have been prior to the DEA
24 asking for that list of top customers. I

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1 don't have that information, nor do I
2 recollect the exact dates.
3 Q. We looked at the dates, and
4 we found that you actually stopped doing
5 business with Herndon after the DEA asked
6 you for the Herndon records. We saw
7 that. Do you remember that? Or do you
8 want to go back to it?
9 A. No. That would have been
10 when I resolved and saw that -- made a
11 determination, because I did visit this
12 pharmacy both with the sales team and
13 also our VP GM. I was there with -- I
14 was at Herndon several visits. I went
15 with upper management, who was
16 responsible for the distribution area,
17 the VP GM, vice president general
18 manager. And our determination was that
19 we would stop doing business with Herndon
20 Pharmacy.
21 Q. And you knew that
22 Dr. Salerian had specialized in cash
23 customers. You knew that he was -- he
24 was a cash doctor. You knew that, right?

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1 A. No, I did not. How -- no, I
2 would not have known that -- how patients
3 were paying Dr. Salerian.
4 Q. And you knew that most of
5 his customers were from West Virginia.
6 Did you know that?
7 A. I'm unaware. I'm not
8 certain of that to my recollection back
9 then.
10 Q. And -- but you had
11 responsibility under your responsibility
12 to protect the American public from a
13 drug crisis, you had a responsibility to
14 have in place a system that would
15 determine whether this type of thing was
16 going on, cash customers, people driving
17 in from out of town, you had a
18 responsibility to make sure you had a
19 system that prevented that, correct?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: We had
23 responsibility to have a system to
24 detect diversion based off of

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1 frequency, size and patterns.
2 And, you know, the fact that I did
3 turn this customer off shows that
4 I was doing my due diligence.
5 BY MR. PAPANTONIO:
6 Q. Yeah, you did your due
7 diligence after you sold him all of those
8 drugs for seven years, right?
9 MS. HENN: Objection to
10 form.
11 THE WITNESS: I don't know
12 the extent of Herndon, how long
13 they were open. I do not believe
14 that he was open seven years.
15 BY MR. PAPANTONIO:
16 Q. All right. How many years
17 they were open, you were make -- McKesson
18 was making a lot of money while
19 Dr. Salerian was dealing with Herndon
20 selling money -- selling dope for cash,
21 right? A lot of years that went on,
22 right?
23 A. Again, I said I don't know
24 if patients are paying cash at the

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1 doctor's office. It's protected.
2 Q. You had a marketing program.
3 McKesson had a marketing program, didn't
4 they, where they actually -- they
5 actually had marketing programs to
6 increase the sales of these drugs, all
7 over the country, correct?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: I am not
11 familiar with our marketing side
12 of the business. I don't get
13 involved with marketing. I was in
14 regulatory. So I'm not familiar
15 with what sales programs there
16 were out there.
17 BY MR. PAPANTONIO:
18 Q. So nobody ever told you, as
19 you were trying to do your job in
20 regulatory and control the flow of drugs,
21 nobody told you that, hey, we're out
22 there actually marketing drugs. We're
23 helping sell -- we're helping -- we're
24 helping push more pills. Nobody ever

<p style="text-align: right;">Page 266</p> <p>1 told you that, did they?</p> <p>2 MS. HENN: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: McKesson would</p> <p>5 be in the sales department they</p> <p>6 would be selling all products.</p> <p>7 Controlled substances, Rx, OTC.</p> <p>8 But as I said, I'm not aware</p> <p>9 of specific sales programs to</p> <p>10 increase sales of controlled</p> <p>11 substances.</p> <p>12 BY MR. PAPANTONIO:</p> <p>13 Q. Give me --</p> <p>14 MR. PAPANTONIO: What number</p> <p>15 is that? Video 1. Let's take a</p> <p>16 look at. No, wait I want -- yeah,</p> <p>17 Video Number 1. Video Number 1.</p> <p>18 Yeah, Video Number 1 if you could</p> <p>19 tee it up.</p> <p>20 (Document marked for</p> <p>21 identification as Exhibit</p> <p>22 MCK-Oriente-Video-1.)</p> <p>23 BY MR. PAPANTONIO:</p> <p>24 Q. You say you watched the</p>	<p style="text-align: right;">Page 268</p> <p>1 (End of video playback.)</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. Wow, one of y'all are lying</p> <p>4 here. He just said that they don't</p> <p>5 market drugs. Isn't that what he just</p> <p>6 said? And you just said they do, which</p> <p>7 is it?</p> <p>8 MS. HENN: Objection to</p> <p>9 form, Counsel.</p> <p>10 BY MR. PAPANTONIO:</p> <p>11 Q. I'm just curious. Is he</p> <p>12 lying about -- when he's testifying in</p> <p>13 front of Congress, swore to tell the</p> <p>14 truth, is he telling the truth when he</p> <p>15 tells the entire congressional meeting</p> <p>16 there that McKesson doesn't market drugs?</p> <p>17 Let's play it again I want</p> <p>18 to make sure we get this right.</p> <p>19 MR. PAPANTONIO: Play it</p> <p>20 again, please.</p> <p>21 (Video playback.)</p> <p>22 MR. HAMMERGREN: As a</p> <p>23 distributor, we don't manufacture</p> <p>24 prescription drugs. We don't</p>
<p style="text-align: right;">Page 267</p> <p>1 entire -- did you watch the entire</p> <p>2 congressional hearing with your boss</p> <p>3 testifying in front of the congressional</p> <p>4 hearing after he'd sworn to tell the</p> <p>5 truth?</p> <p>6 A. I was not at the TV the</p> <p>7 entire time, no.</p> <p>8 Q. All right. Let's see if you</p> <p>9 were at the TV during this time. Let's</p> <p>10 play this.</p> <p>11 MR. PAPANTONIO: You've got</p> <p>12 to turn it up. Start again and</p> <p>13 turn it up.</p> <p>14 (Video playback.)</p> <p>15 MR. HAMMERGREN: As a</p> <p>16 distributor, we don't manufacture</p> <p>17 prescription drugs. We don't</p> <p>18 market them to doctors or</p> <p>19 patients, nor do we market any</p> <p>20 particular category of drugs such</p> <p>21 as opioids to pharmacists.</p> <p>22 Distributors respond to</p> <p>23 pharmacy orders which are based on</p> <p>24 doctors' prescriptions.</p>	<p style="text-align: right;">Page 269</p> <p>1 market them to doctors or</p> <p>2 patients, nor do we market any</p> <p>3 particular category of drugs, such</p> <p>4 as opioids, to pharmacists.</p> <p>5 Distributors respond to</p> <p>6 pharmacy orders which are based on</p> <p>7 doctors' prescriptions.</p> <p>8 (End of video playback.)</p> <p>9 BY MR. PAPANTONIO:</p> <p>10 Q. Did you know that he said</p> <p>11 that in front in front of Congress?</p> <p>12 A. No, I did not.</p> <p>13 Q. Okay. If he said that, he's</p> <p>14 not telling the truth. He's committing</p> <p>15 perjury, isn't he?</p> <p>16 MS. HENN: Objection to</p> <p>17 form.</p> <p>18 THE WITNESS: I'm not going</p> <p>19 to say if he is or isn't.</p> <p>20 BY MR. PAPANTONIO:</p> <p>21 Q. Okay. If he's raising his</p> <p>22 right-hand and swearing to Congress that</p> <p>23 he's telling the truth, and he's lying,</p> <p>24 he's committing perjury, isn't he?</p>

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1 A. What he --
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: What I believe
5 he's saying there is that we sell
6 what pharmacies order.
7 BY MR. PAPANTONIO:
8 Q. No, sir. No, sir. He
9 says --
10 MR. PAPANTONIO: Play it
11 again. Play it again.
12 (Video playback.)
13 MR. HAMMERGREN: As a
14 distributor, we don't manufacture
15 prescription drugs. We don't
16 market them to doctors or
17 patients, nor do we market any
18 particular category of drugs such
19 as opioids to pharmacists.
20 Distributors respond to
21 pharmacy orders, which are based
22 on doctors' prescriptions.
23 (End of video playback.)
24 BY MR. PAPANTONIO:

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1 Q. Wow. That's just not true,
2 is it? What he just -- what he just said
3 in front of Congress, the very highest
4 man, very highest person in McKesson
5 drugs just lied to Congress, didn't he?
6 MS. HENN: Objection to
7 form.
8 THE WITNESS: I can't say
9 that he did. If you want me to --
10 and know what he's saying, then
11 he's saying that a doctor writes a
12 prescription. A pharmacy orders
13 product to fill that prescription.
14 And then we fill -- we send an
15 order to a pharmacy after they
16 order it.
17 MR. PAPANTONIO: All right.
18 We'll -- we're going to explore
19 this a little bit more after
20 lunch. Okay. We'll take a lunch
21 break, and we'll come back and
22 pick up with this. Okay.
23 THE VIDEOGRAPHER: All
24 right. Stand by, please. The

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1 time is 12:24 p.m. Off the
2 record.
3 - - -
4 (Lunch break.)
5 - - -
6 THE VIDEOGRAPHER: We are
7 back on the record. The time is
8 1:09 p.m.
9 - - -
10 EXAMINATION (Cont'd.)
11 - - -
12 BY MR. PAPANTONIO:
13 Q. Sir, when we took a lunch
14 break, we were talking about the
15 marketing that McKesson does. And in
16 fact, marketing, by marketing, you
17 increase sales, correct? Isn't that the
18 idea of marketing?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: Well, I --
22 marketing is not necessarily a
23 correlation to increasing sales.
24 I see it more of advertising.

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1 BY MR. PAPANTONIO:
2 Q. Okay. So you were
3 advertising narcotics?
4 MS. HENN: Objection to
5 form.
6 THE WITNESS: Not myself.
7 BY MR. PAPANTONIO:
8 Q. But McKesson?
9 A. I don't --
10 MS. HENN: Objection to
11 form.
12 THE WITNESS: I don't know
13 that they were. I know they do
14 sales so by saying marketing and
15 sales as one, I'm not aware of
16 them marketing controls and
17 pushing controls.
18 If a pharmacy isn't going to
19 be able to fill a prescription,
20 they are not going to buy
21 something simply to buy it and put
22 it on their shelf.
23 BY MR. PAPANTONIO:
24 Q. Sir, let me cut right to it,

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1 okay.
2 You as a regulator, as you
3 sit here today, had no idea that your
4 company was out marketing narcotics. Is
5 that a yes or a no?
6 MS. HENN: Objection to
7 form.
8 THE WITNESS: As I stated,
9 McKesson is selling products that
10 a pharmacy needs to fill
11 prescriptions.
12 BY MR. PAPANTONIO:
13 Q. Narcotics is one of them?
14 A. Yes.
15 Q. Correct?
16 Okay. You did know that
17 they were marketing narcotics then,
18 correct?
19 MS. HENN: Objection to
20 form.
21 BY MR. PAPANTONIO:
22 Q. I want to be clear on this,
23 because I'm getting ready to go through
24 some documents here. And I want to be

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1 clear, you knew that McKesson was
2 marketing narcotics, yes or no?
3 MS. HENN: Objection to
4 form.
5 THE WITNESS: Yes, McKesson
6 is selling narcotics.
7 BY MR. PAPANTONIO:
8 Q. Okay. And for example --
9 MR. PAPANTONIO: 1154, would
10 you put up 1154.
11 BY MR. PAPANTONIO:
12 Q. You knew, sir, didn't you,
13 that McKesson -- let me -- before I ask
14 this question.
15 If you see upticks in
16 sales -- for example, we went through a
17 few of the pharmacies that you were in
18 charge with, right? And there is a lot
19 of factors that affect upticks in sales.
20 You would agree with that?
21 A. Yes.
22 Q. I think you explained a few.
23 A. Yes, there are some.
24 Q. And -- and if you don't know

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1 that your company is marketing, you have
2 no way to keep up with why there are so
3 many sales at a particular pharmacy, you
4 kind of have to know a correlation, don't
5 you?
6 MS. HENN: Objection to
7 form.
8 THE WITNESS: In the
9 regulatory area, we would request
10 information from the pharmacy that
11 would explain why their increase
12 in business.
13 BY MR. PAPANTONIO:
14 Q. All right. And you knew
15 that -- or maybe you didn't know. But do
16 you have any opinion as far as your
17 experience as a regulator, that marketing
18 increases sales?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: I would say
22 not in the case for controlled
23 substances, because a prescription
24 has to be written by a doctor in

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1 order for that increase in sales
2 to take place.
3 BY MR. PAPANTONIO:
4 Q. When -- after your
5 president, Mr. Hammergren, CEO, testified
6 that your company didn't do any
7 marketing, do you remember any e-mails
8 flying around -- flying around at
9 McKesson saying he just -- he just
10 committed perjury?
11 MS. HENN: Objection to
12 form.
13 BY MR. PAPANTONIO:
14 Q. Was there any kind of
15 e-mails like that that were flying around
16 the McKesson headquarters?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: I did not see
20 any e-mails pertaining to that,
21 no.
22 BY MR. PAPANTONIO:
23 Q. But it wasn't true. What he
24 said was not true. You agreed to that

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1 already, I think?

2 MS. HENN: Objection to

3 form.

4 THE WITNESS: I don't know

5 what his definition of

6 marketing -- what he was referring

7 to on that.

8 BY MR. PAPANTONIO:

9 Q. Yeah. Well, as a matter of

10 fact, sir, you were marketing with

11 Purdue. You had --

12 MR. PAPANTONIO: 1154.

13 Could you put up 1154.

14 MS. MOORE: It's MCK Oriente

15 144.

16 MS. HENN: Do you want 1154,

17 or would you like him to see 144?

18 MR. PAPANTONIO: 1154. The

19 number she is giving is just for

20 identification.

21 (Document marked for

22 identification as Exhibit

23 MCK-Oriente-144.)

24 BY MR. PAPANTONIO:

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1 Q. You've seen -- have you ever

2 seen this document --

3 MS. HENN: Wait, wait.

4 Counsel, I just want to make

5 sure we're clear. The witness has

6 been handed a document that's

7 labeled and marked McKesson

8 Oriente 144. So we need to make

9 sure that the record's clear about

10 that. I don't know what number

11 you're using, but that's what he

12 has.

13 MS. O'GORMAN: Can I have a

14 copy of that document.

15 MS. HENN: And we're --

16 MR. PAPANTONIO: So --

17 MS. HENN: And we need

18 another copy of the document.

19 MR. PAPANTONIO: Yeah.

20 BY MR. PAPANTONIO:

21 Q. So McKesson had a marketing

22 arrangement with Purdue. Did you know

23 that?

24 MS. HENN: Objection to

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1 form.

2 THE WITNESS: I was not

3 aware, nor have I ever seen this.

4 BY MR. PAPANTONIO:

5 Q. Is this the first time that

6 you've seen this marketing arrangement

7 between McKesson and Purdue where they

8 were marketing narcotics?

9 A. Yes. As I --

10 MS. HENN: Objection to

11 form.

12 THE WITNESS: Yes. As I

13 stated earlier, I did not get

14 involved with the sales side of

15 the business. I have never seen

16 this document.

17 BY MR. PAPANTONIO:

18 Q. Do you know what loyal --

19 what the term "loyalty script" is? Have

20 you ever heard that?

21 A. No, I have not.

22 Q. Okay. Did you know that

23 Purdue and McKesson actually, as early as

24 2010, had a marketing program, an

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1 agreement with something called Butrans.

2 Do you know what Butrans is?

3 A. No, I've never heard of --

4 Q. B-U-T-R-A-N-S?

5 A. No, sir, never heard of it.

6 Q. You don't know if it's a

7 narcotic or not?

8 A. Butrans? I've never heard

9 that word before.

10 Q. Yeah, okay. And so nobody

11 told you as you were out trying to figure

12 out regulatory aspects of what was going

13 on with your pharmacies, when were they

14 selling more, when were they selling

15 less, nobody told you that while all that

16 was going on, Purdue and McKesson had a

17 marketing program put together?

18 MS. HENN: Objection.

19 BY MR. PAPANTONIO:

20 Q. Nobody told you that, right?

21 MS. HENN: Objection to

22 form.

23 BY MR. PAPANTONIO:

24 Q. Correct?

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1 A. You mentioned that, and I
2 was unaware that there was any program
3 between the two.
4 Q. And apparently your CEO, the
5 highest man in this company, must have
6 been unaware of it too, because he told
7 Congress there was no such thing as
8 marketing between -- for McKesson
9 marketing?
10 MS. HENN: Objection to
11 form.
12 BY MR. PAPANTONIO:
13 Q. That's what we -- that's
14 what we listened to on the video, didn't
15 we?
16 MS. HENN: Objection to
17 form.
18 BY MR. PAPANTONIO:
19 Q. Right?
20 A. I don't know what he was
21 exactly referring to, sir.
22 Q. Well, you knew that you were
23 marketing -- do you know what Teva is?
24 Have you ever heard the company Teva?

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1 A. Teva Pharmaceutical, they're
2 another manufacturer.
3 Q. Okay. And you had -- nobody
4 told you that --
5 MR. PAPANTONIO: Would you
6 put up 1317, please.
7 MS. HENN: Could we get a
8 copy for the witness, please?
9 MR. PAPANTONIO: We're
10 getting a copy right now. 1317.
11 Carol give the identification on
12 this.
13 MS. MOORE: MCK Oriente 279.
14 (Document marked for
15 identification as Exhibit
16 MCK-Oriente-279.)
17 BY MR. PAPANTONIO:
18 Q. Tell the jury what Fentanyl
19 is.
20 MS. HENN: Counsel, can you
21 wait until the witness has the
22 document, please? Thank you.
23 MR. PAPANTONIO: Well, he
24 doesn't have to have the document

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1 in order to answer this question.
2 BY MR. PAPANTONIO:
3 Q. Tell the jury what fentanyl
4 is.
5 MS. HENN: Do you want him
6 to look at it?
7 MR. PAPANTONIO: I do want
8 him to look at it. I'm not asking
9 about the document.
10 MS. HENN: I just want to
11 make sure he's doing one thing at
12 a time. If you have a question or
13 you'd like --
14 BY MR. PAPANTONIO:
15 Q. This is a clear question.
16 Tell the jury what fentanyl is.
17 A. Fentanyl is a controlled
18 substance used to control pain.
19 Q. And tell us about the
20 potency of fentanyl, as you understand
21 it?
22 A. It's highly potent and
23 usually is administered in a patch.
24 Q. Is it -- would you agree

Page 285

1 that it is the most potent narcotic on
2 the market?
3 A. I'm not a pharmacist, but I
4 know it's one of the higher potency --
5 excuse me -- potency controlled
6 substances, yes.
7 Q. Again, we heard that your
8 CEO say that you don't market, McKesson
9 doesn't market. What is -- the title on
10 this is "McKesson Manufacturer Marketing
11 Contract." And then it goes on and it
12 talks about Actiq and Fentora. Would you
13 tell the jury what Actiq and Fentora is.
14 MS. HENN: Objection to
15 form.
16 THE WITNESS: I know Actiq.
17 Fentora I'm not 100 percent clear
18 or familiar with that specific
19 brand.
20 The Actiq, I believe, is
21 like a lollipop dispenser type for
22 fentanyl.
23 BY MR. PAPANTONIO:
24 Q. So you've got a fentanyl

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1 lollipop that you would agree is the most
2 potent narcotic ever sold in America.
3 You would agree with that, wouldn't you?
4 A. Not necessarily, sir. I'm
5 not a pharmacist. I can't say that it's
6 more or less potent than another drug.
7 Q. Have you ever seen the
8 comparison between how potent fentanyl is
9 compared to other narcotics?
10 MS. HENN: Objection to
11 form.
12 THE WITNESS: No. No.
13 BY MR. PAPANTONIO:
14 Q. I'll put this up in a
15 minute. Have you ever seen that?
16 MS. HENN: Are you going to
17 hand him --
18 MR. PAPANTONIO: I'm going
19 to in just a second.
20 BY MR. PAPANTONIO:
21 Q. Have you ever seen that?
22 MS. HENN: What are you
23 referring to, Counsel?
24 BY MR. PAPANTONIO:

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1 Q. I'm looking at a picture
2 that makes a comparison between heroin
3 and fentanyl.
4 Have you ever seen any kind
5 of comparisons between fentanyl and
6 heroin? Ever seen any comparisons
7 between fentanyl and heroin?
8 A. Not that specific one. But
9 yes, that fentanyl is one of the
10 stronger, you know, drugs.
11 Q. Okay. And so when your CEO
12 was testifying before Congress and said
13 we don't market, he didn't mention
14 anything that, oh, by the way, we are
15 marketing the most potent narcotic sold
16 in America, which is fentanyl, along with
17 Teva. You never heard that out of that
18 discussion that we saw on the screen, did
19 you?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: I did not hear
23 that on -- on video, no.
24 BY MR. PAPANTONIO:

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1 Q. When you -- what was your
2 involvement with Fentora and Actiq, the
3 fentanyl products?
4 MS. HENN: Objection to
5 form.
6 THE WITNESS: Fentanyl is
7 one of the base codes under --
8 there are 82 different base codes
9 that we monitor.
10 They were under the fentanyl
11 base code. They would have had a
12 monthly threshold amount. So it
13 was one of 82 products that we --
14 or, excuse me -- 82 base codes
15 that we looked at on a daily
16 basis.
17 BY MR. PAPANTONIO:
18 Q. Okay. We already heard that
19 you were aware of the Department of
20 Justice going after Purdue and making
21 them pay a fine for the way they sold
22 their product, correct?
23 MS. HENN: Objection to
24 form.

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1 BY MR. PAPANTONIO:
2 Q. We already heard that
3 earlier, right?
4 MS. HENN: Objection to
5 form.
6 MS. O'GORMAN: Same
7 objection.
8 BY MR. PAPANTONIO:
9 Q. Earlier in the deposition,
10 we talked about that.
11 Do you remember that?
12 A. Yes, I do.
13 Q. Okay. And you were aware of
14 it, correct?
15 MS. HENN: Objection to
16 form.
17 MS. O'GORMAN: Same
18 objection.
19 THE WITNESS: I was aware
20 that there was a lawsuit against
21 Purdue for their advertising
22 practices.
23 BY MR. PAPANTONIO:
24 Q. So you decide, even though

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1 there was a lawsuit against Purdue for
2 advertising in a way that misled the
3 public about the addictive nature of
4 their products, you were aware that
5 McKesson chose to do business with them
6 anyway, true?
7 MS. HENN: Objection to
8 form.
9 MS. O'GORMAN: Objection to
10 form.
11 THE WITNESS: McKesson did
12 business with Purdue to sell a
13 product that, you know, when used
14 in the correct or medical
15 purposes, is beneficial to
16 fighting pain. That, I knew.
17 BY MR. PAPANTONIO:
18 Q. And you know enough to know
19 that if you don't tell the truth about
20 the qualities of your product, if you lie
21 about the qualities of your product when
22 consumers are buying that product, that
23 can cause real harm. You're aware of
24 that, aren't you, as -- in your business

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1 for this many years?
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: If -- if the
5 person taking the product does not
6 have all the truthful information,
7 it could be detrimental.
8 BY MR. PAPANTONIO:
9 Q. And you know that the
10 people, the very people that you were
11 buying products from, which was Purdue,
12 was not giving truthful information to
13 doctors and to patients. You know that
14 now, correct?
15 MS. O'GORMAN: Objection.
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: I know that
19 now. When I learned of it, it was
20 still ongoing.
21 BY MR. PAPANTONIO:
22 Q. When did you learn about it,
23 sir?
24 A. I don't remember the exact

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1 date, sir.
2 Q. And so now we're talking
3 about another company, not Purdue. We're
4 now talking about a company Teva, and
5 McKesson is marketing a fentanyl product
6 for them, two fentanyl products. And you
7 are aware, sir, aren't you that the
8 Department of Justice actually brought
9 criminal charges against them for also
10 not telling the truth about information
11 of their product. Did you know that?
12 MS. HENN: Objection to
13 form.
14 THE WITNESS: No, I did not.
15 I did not know Teva had --
16 BY MR. PAPANTONIO:
17 Q. Okay. Had you ever -- let
18 me just -- let me see if this ever -- you
19 ever remember this knocking around the
20 office. 13 -- excuse me, 1381.
21 MS. MOORE: MCK Oriente 322.
22 (Document marked for
23 identification as Exhibit
24 MCK-Oriente-322.)

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1 BY MR. PAPANTONIO:
2 Q. Do you see where it says up
3 in the left-hand corner there, sir -- I
4 know this is not your document. Here's
5 what I'm interested in. You had a system
6 at McKesson where information was sent
7 around about issues involving narcotics
8 that involved other companies besides
9 your own, correct?
10 MS. HENN: Objection to
11 form.
12 THE WITNESS: I'm not
13 familiar with this. You said
14 there's a system.
15 BY MR. PAPANTONIO:
16 Q. Yeah. I mean, you had an --
17 you had an entire system that kept you
18 informed about what was happening in
19 the -- in the drug business, right?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: No, not to my
23 knowledge.
24 BY MR. PAPANTONIO:

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1 Q. Had you ever heard of Rx
2 News?
3 A. That's not a McKesson
4 system, is it?
5 Q. It's a system that you were
6 a member of, McKesson -- Rx News. Do you
7 know you were a member that?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: Was I on that
11 e-mail distribution?
12 BY MR. PAPANTONIO:
13 Q. Yeah. Did you know that? I
14 don't want to speak for you. Do you have
15 any memory of getting news from Rx News?
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: I don't have a
19 recollection of getting news from
20 Rx News.
21 BY MR. PAPANTONIO:
22 Q. And so is it your testimony
23 that when something would happen with
24 another company, when they've involved

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1 themselves in criminal conduct, when
2 they've been -- they've been hit by the
3 DOJ for doing something illegal, that you
4 had no way of knowing that? Is that your
5 testimony?
6 MS. HENN: Objection to
7 form.
8 THE WITNESS: I don't recall
9 getting updates via Rx News.
10 BY MR. PAPANTONIO:
11 Q. Isn't that important
12 information for you to know as a
13 regulator? I mean, you're in -- you're
14 in regulatory. You're selling narcotics
15 all over the country. And you're buying
16 those products from people that you don't
17 know anything about?
18 MS. HENN: Objection to
19 form.
20 BY MR. PAPANTONIO:
21 Q. Is that what you're telling
22 me?
23 MS. HENN: Objection to
24 form.

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1 THE WITNESS: The decision
2 to do business at that level would
3 not have been my responsibility.
4 My responsibility was to monitor
5 what the customers purchased, not
6 to determine if McKesson would use
7 a wholesaler -- excuse me, a
8 manufacturer or not.
9 BY MR. PAPANTONIO:
10 Q. Well, you don't want to do
11 business with a manufacturer that is
12 guilty of criminal conduct, do you?
13 MS. HENN: Objection to
14 form.
15 BY MR. PAPANTONIO:
16 Q. Or is that okay with you?
17 A. That decision was not left
18 up to me, sir.
19 I -- again, I would monitor
20 what our customers purchased. But
21 whether or not McKesson did business with
22 a manufacturer was above my level.
23 Q. Wouldn't you want to know as
24 a regulator, sir, that's working every

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1 day to try to regulate the amount of
2 narcotics that are being spread out all
3 over this country, wouldn't you know --
4 wouldn't you want to know if you're doing
5 business with a criminal?
6 MS. HENN: Objection to
7 form.
8 BY MR. PAPANTONIO:
9 Q. Buying products from a
10 criminal, is that important to you?
11 MS. HENN: Same objection.
12 THE WITNESS: It's important
13 to me. It was handled at a higher
14 level than myself.
15 BY MR. PAPANTONIO:
16 Q. Okay. Let me ask you.
17 You've been in regulatory how many years?
18 A. 11 years, sir.
19 Q. 11 years. And after
20 11 years of experience, you would have to
21 agree with me, sir, wouldn't you, that it
22 is pretty important to know that the
23 people that you're doing business with
24 have been hit for criminal conduct.

<p style="text-align: right;">Page 298</p> <p>1 That's pretty important information to 2 you, isn't it? 3 MS. HENN: Objection to 4 form. 5 THE WITNESS: The 6 information would be good to know. 7 The decision on whether or not to 8 do business with that company 9 would not be under my 10 responsibility to continue or to 11 cease. 12 BY MR. PAPANTONIO: 13 Q. Yeah, you -- but -- and 14 you -- 15 This is the first time that 16 you've seen this document. The left-hand 17 corner it says Department of Justice, and 18 it talks about Teva has to pay 19 \$425 million for what they call criminal 20 information plea. Did you know that? 21 MS. HENN: Counsel, is this 22 about Teva? I don't see anything 23 about Teva. 24 BY MR. PAPANTONIO:</p>	<p style="text-align: right;">Page 300</p> <p>1 actions of our -- of our 2 manufacturers that we were buying 3 from. 4 BY MR. PAPANTONIO: 5 Q. Sir, so you felt like -- 6 your testimony here today is you felt 7 like you had no responsibility to 8 understand where all these narcotics were 9 coming from that was being distributed 10 through your distribution operation in 11 Landover. Is that what you're telling 12 me? 13 MS. HENN: Objection to 14 form. 15 THE WITNESS: No, sir. 16 That's not what I'm telling you. 17 What I'm saying is my 18 responsibility was in what was 19 being sold by McKesson to these 20 licensed pharmacies and to watch 21 what products they were 22 purchasing. 23 It was not my responsibility 24 to follow what lawsuits or actions</p>
<p style="text-align: right;">Page 299</p> <p>1 Q. Sir, you know what Cephalon 2 is. Counsel may not be. You know who 3 Cephalon. Cephalon is Teva, isn't it? 4 A. I do not know that for sure, 5 sir. 6 Q. Sir, how much information 7 were you given day to day about all the 8 people that you were buying drugs from 9 and then distributing in the company, 10 like Purdue or Teva or Cephalon? How 11 much information were you given by people 12 in management that said we have a 13 relationship with somebody who has been 14 hit and fined for criminal conduct? 15 MS. HENN: Objection to 16 form. 17 BY MR. PAPANTONIO: 18 Q. Who is it that would tell 19 you that? 20 MS. O'GORMAN: Objection. 21 THE WITNESS: We -- in the 22 regulatory that I was responsible 23 for was for what our customers 24 were purchasing, not for the</p>	<p style="text-align: right;">Page 301</p> <p>1 were going against manufacturers. 2 BY MR. PAPANTONIO: 3 Q. The jury is going to hear, 4 sir, about how potent fentanyl is, right. 5 How would you describe the potency of 6 fentanyl? 7 A. Again, sir, I'm not a 8 pharmacist. So a potency of fentanyl 9 versus other products, I don't have that 10 scientific knowledge. 11 Q. You know by the time -- by 12 the time that 2011 rolled around, you 13 knew that on the street people were 14 taking all three of your drugs that 15 McKesson distributed, and they were 16 mixing it in cocktails. You'd heard 17 about that, correct? 18 MS. HENN: Objection to 19 form. 20 THE WITNESS: That, I was 21 aware. 22 BY MR. PAPANTONIO: 23 Q. You were aware of that. 24 When did you become aware of that?</p>

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1 A. The exact time frame, I
2 don't know.
3 Q. When did you become aware of
4 the number of people who were dying every
5 day from overdoses from narcotics, opioid
6 narcotics?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: That would
10 have been early on, say 2008.
11 BY MR. PAPANTONIO:
12 Q. You knew in 2000 though --
13 no. You weren't there in 2000?
14 A. No, sir.
15 Q. Yeah, okay. 2008 is the
16 first time that you heard that A, there's
17 a crisis, an opioid crisis. You agree?
18 A. About that, yes, sir.
19 Q. 2008 is the first time that
20 you heard that more than 100 people were
21 dying every day from opioid overdoses,
22 correct?
23 MS. HENN: Objection to
24 form.

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1 THE WITNESS: About that
2 time, yes.
3 BY MR. PAPANTONIO:
4 Q. And as you were hearing that
5 information, you were watching the sales
6 tick up higher and higher for every
7 pharmacy that was under your control at
8 Landover. Is that a correct statement?
9 A. No, sir, it's not.
10 MS. HENN: Objection to
11 form.
12 THE WITNESS: It wasn't
13 every pharmacy.
14 BY MR. PAPANTONIO:
15 Q. Well, how many pharmacies
16 was it?
17 A. I don't have that exact
18 amount. There were hundreds of
19 customers, sir, so I wouldn't know
20 exactly how many increased versus did not
21 increase.
22 Q. Well, during the time that
23 you had learned that people, more than --
24 I think it's 116 people. Tell me if you

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1 have a different number. That 116 people
2 were dying. I think that number rises
3 around 2007, as you said.
4 Once you learned that 116
5 people were dying every day from opioids,
6 did your company make any adjustment in
7 the way that they were selling opioids?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: We were
11 continuously adjusting and looking
12 at purchases. As I said, we
13 looked at it on a daily basis as
14 to what customers were purchasing
15 and what quantities, and in what
16 percentage of controls to Rx, how
17 much the business was growing,
18 wasn't growing, again, working
19 with the pharmacies to find out
20 which doctors they were filling
21 these prescriptions for, to try
22 and understand if it was for a
23 legitimate medical purpose.
24 BY MR. PAPANTONIO:

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1 Q. So let me take you back to
2 marketing again, because marketing is,
3 whether you agree or not -- I'm not --
4 it's still not clear to me whether you
5 agree that if you market a product,
6 you're going to sell more product. At
7 this point you have no opinion on that,
8 right?
9 MS. HENN: Objection to
10 form.
11 THE WITNESS: Again, you
12 cannot sell something to a
13 pharmacy if they're not going to
14 use it to fill a prescription.
15 BY MR. PAPANTONIO:
16 Q. Tell us what Actavis is.
17 A. I believe it's pronounced
18 Actavis.
19 Q. Tell us what Actavis is.
20 A. I'm not sure if it's another
21 company, I believe.
22 Q. Well, let's take a look at
23 it.
24 MR. PAPANTONIO: Would you

<p style="text-align: right;">Page 306</p> <p>1 give us Document 113, please.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. Because I'm still on this</p> <p>4 topic dealing your CEO testifying in</p> <p>5 front of Congress saying that your</p> <p>6 company did not market, okay. I'm still</p> <p>7 on this topic. Stay with me here.</p> <p>8 A. I'm with you.</p> <p>9 Q. All right. Do you see this</p> <p>10 document right here?</p> <p>11 MS. HENN: So the document.</p> <p>12 MR. PAPANTONIO: Carol, give</p> <p>13 them the number.</p> <p>14 MS. MOORE: MCK Oriente 20.</p> <p>15 MS. HENN: Thank you.</p> <p>16 (Document marked for</p> <p>17 identification as Exhibit</p> <p>18 MCK-Oriente-020.)</p> <p>19 BY MR. PAPANTONIO:</p> <p>20 Q. So this document, if you</p> <p>21 will look, first of all, tell me, who is</p> <p>22 John Hansen? Do you know?</p> <p>23 A. I do not know who John</p> <p>24 Hansen is.</p>	<p style="text-align: right;">Page 308</p> <p>1 A. Yes, McKesson carried that</p> <p>2 product.</p> <p>3 Q. All right. And here they</p> <p>4 are talking about marketing that product</p> <p>5 that McKesson sold with Actavis.</p> <p>6 Do you see that?</p> <p>7 MS. HENN: Let's give the</p> <p>8 witness a chance to read it,</p> <p>9 please.</p> <p>10 MR. PAPANTONIO: Sir, are</p> <p>11 you a little --</p> <p>12 MS. HENN: Just let --</p> <p>13 MR. PAPANTONIO: No, no.</p> <p>14 I'm going to ask questions.</p> <p>15 He's -- you're welcome to read</p> <p>16 anything you want. I'm amazed</p> <p>17 that these documents haven't been</p> <p>18 shown to this witness. So don't</p> <p>19 waste my time here. Now,</p> <p>20 here's --</p> <p>21 MS. HENN: Counsel, I'd just</p> <p>22 like to again reiterate --</p> <p>23 MR. PAPANTONIO: That's</p> <p>24 fine.</p>
<p style="text-align: right;">Page 307</p> <p>1 Q. You see the -- you see Page</p> <p>2 2 of this document right here.</p> <p>3 MS. HENN: Just to remind</p> <p>4 the witness, you can take your</p> <p>5 time to read the document.</p> <p>6 BY MR. PAPANTONIO:</p> <p>7 Q. Well, I want you to read it,</p> <p>8 because nobody is showing it to you</p> <p>9 before you came in here today, did you?</p> <p>10 A. No, I've never seen this.</p> <p>11 Q. Yeah, this is -- this is a</p> <p>12 McKesson document, right?</p> <p>13 A. I don't know. Is it?</p> <p>14 Q. Well, let's take a look at</p> <p>15 the top of it. It says, at the top of</p> <p>16 this page on Page 2 --</p> <p>17 MR. PAPANTONIO: How about</p> <p>18 blowing that up for me.</p> <p>19 BY MR. PAPANTONIO:</p> <p>20 Q. It says, "Subject: McKesson</p> <p>21 marketing opportunities. Actavis." And</p> <p>22 we are talking about oxymorphone and that</p> <p>23 is a narcotic that McKesson sold,</p> <p>24 correct?</p>	<p style="text-align: right;">Page 309</p> <p>1 MS. HENN: -- as you agreed,</p> <p>2 that if the witness needs to read</p> <p>3 the document to answer your</p> <p>4 questions, you need to give him</p> <p>5 time to do that.</p> <p>6 MR. PAPANTONIO: I'm fine</p> <p>7 with that. And I am appalled that</p> <p>8 you never -- or anybody with</p> <p>9 McKesson never showed him this</p> <p>10 document before you put him in</p> <p>11 that chair to be cross-examined.</p> <p>12 I'm appalled.</p> <p>13 MS. HENN: Noted.</p> <p>14 BY MR. PAPANTONIO:</p> <p>15 Q. So with that, read the</p> <p>16 document. Do you see it?</p> <p>17 The top of the page says,</p> <p>18 "Subject: McKesson marketing</p> <p>19 opportunities." And you didn't even know</p> <p>20 prior to coming in here, and obviously</p> <p>21 either your CEO did know and lied to</p> <p>22 Congress or he didn't know, but it says</p> <p>23 right here, "McKesson marketing</p> <p>24 opportunities. Actavis, oxymorphone,"</p>

<p style="text-align: right;">Page 310</p> <p>1 right there, correct? And that's a 2 product -- that's a product that you 3 distributed? 4 A. Yes. 5 Q. All right. And it says, 6 "Hi, Ara. I'm the marketing director for 7 the McKesson one-stop generics program. 8 In collection" -- "in collaboration with 9 Amber Kehoe's product management team 10 I've put together a marketing plan" -- 11 MR. PAPANTONIO: Please 12 underline "marketing plan." 13 BY MR. PAPANTONIO: 14 Q. -- "put together a marketing 15 plan to promote awareness of your 16 recently launched oxymorphone ER 17 tablets." 18 And, sir, is there anything 19 equivocal about what I just read? Do you 20 understand what this is talking about in 21 regard to marketing oxymorphone that your 22 company distributed all over this 23 country? 24 MS. HENN: Objection to</p>	<p style="text-align: right;">Page 312</p> <p>1 marketing if it's not important? Why 2 would he do that? Do you know? 3 MS. HENN: Objection to 4 form. 5 THE WITNESS: I'm not aware 6 of what Mr. Hammergren's testimony 7 was based on. 8 BY MR. PAPANTONIO: 9 Q. It was based on a lie, 10 wasn't it? 11 MS. HENN: Objection to 12 form. 13 THE WITNESS: I don't agree 14 with that. 15 BY MR. PAPANTONIO: 16 Q. Let's read the next 17 paragraph. It says, "I understand that 18 you're looking to target this to 19 approximately 500 accounts with 20 significant brand purchase history and 21 have accounted for in the proposal. 22 "Please note, however, that 23 many of our communication vehicles can 24 reach a larger population at no</p>
<p style="text-align: right;">Page 311</p> <p>1 form. 2 THE WITNESS: This document, 3 from what I'm reading, says that 4 McKesson is looking at promoting 5 awareness for this new product. 6 What I was involved in is 7 the threshold amount that a 8 customer could order. So with a 9 threshold amount remaining the 10 same, the customer could not get 11 any more product unless I made a 12 threshold adjustment. 13 So, you know, they would 14 have had to have business increase 15 to justify that. 16 The amount that a pharmacy 17 could purchase was not just 18 increased based on any marketing 19 that was done. We looked at 20 different factors than -- than the 21 marketing. 22 BY MR. PAPANTONIO: 23 Q. So why would the CEO of 24 McKesson get up and lie to Congress about</p>	<p style="text-align: right;">Page 313</p> <p>1 additional charge." 2 Did I just read that right, 3 or is there anything that you want to add 4 to it before we move on? 5 A. You read that right. As I 6 stated earlier, being in regulatory and 7 looking at different factors that go into 8 threshold setting, I'm not familiar with 9 what they would be referring to 10 regarding, you know, marketing and sales 11 and things of that nature here. 12 So, again, the threshold 13 that I was responsible for and what I 14 would look at would not be affected by if 15 they were doing this -- these promotions. 16 Q. In other words, promotions 17 don't make any difference to sales of 18 McKesson. Is that what you're telling 19 me? 20 MS. HENN: Objection to 21 form. 22 THE WITNESS: No, what I 23 said was promotion -- these 24 promotions would not have an</p>

<p style="text-align: right;">Page 314</p> <p>1 effect on a customer being able to 2 order more product. 3 MR. PAPANTONIO: Look, I'm 4 going to close and I'm going to 5 let my partner take over from 6 here, Mr. Kennedy. 7 BY MR. PAPANTONIO: 8 Q. But I want to ask you 9 something. If you're -- if you are in 10 the position of having to tell the DEA 11 about suspicious orders, that's something 12 that you take very seriously, right? 13 A. Yes, sir, I do. 14 Q. And the term "suspicious 15 orders" is pretty clear. If an order is 16 suspicious, you -- you need to report it, 17 correct? We've established that. 18 MS. HENN: Objection to 19 form. 20 THE WITNESS: That is 21 correct. 22 MR. PAPANTONIO: Okay. 23 Would you please show him 24 Document 345, please.</p>	<p style="text-align: right;">Page 316</p> <p>1 turning over to .23, Page 23. It's at 2 the top right-hand corner. Oh, excuse 3 me. No. 20 -- yeah, Page 23. It's at 4 the top right-hand corner. 5 A. Okay. 6 Q. Are you there? 7 A. Yes, sir. 8 MR. PAPANTONIO: Would you 9 please blow up that paragraph that 10 says "customer communications" for 11 me, Evan. 12 BY MR. PAPANTONIO: 13 Q. This is out of -- this is 14 right out of your manual, true? 15 A. Yes. That's -- that's 16 written here in the document. 17 Q. All right. Do you see where 18 it says under -- let's see, one, two, 19 three, four, five, six -- under 5, do you 20 see that fifth dot? 21 A. Yes, sir. 22 Q. It says, "Refrain from using 23 the word 'suspicious' in communication. 24 Once McKesson deems an order or customer</p>
<p style="text-align: right;">Page 315</p> <p>1 MS. MOORE: MCK Oriente 62. 2 (Document marked for 3 identification as Exhibit 4 MCK-Oriente-062.) 5 BY MR. PAPANTONIO: 6 Q. Sir, take a minute and look 7 at this. Do you see where it says 8 McKesson operations manual. Have you 9 ever seen this before? 10 A. Yes, sir. 11 Q. When have you seen it? 12 A. I wouldn't remember the 13 exact date. It would have been when it 14 was established and -- and sent out to 15 us. 16 Q. So you are familiar with the 17 document, right? 18 A. Yes. 19 Q. You're familiar -- you were 20 familiar with the document before you 21 came in here to testify today, correct? 22 A. I've seen this document 23 prior. It's a few years old. 24 Q. How about -- how about</p>	<p style="text-align: right;">Page 317</p> <p>1 suspicious, McKesson is required to act." 2 MR. PAPANTONIO: Now I want 3 you to underline that, because 4 we're going to talk about that in 5 just a minute. 6 BY MR. PAPANTONIO: 7 Q. This is telling you, this is 8 telling everybody who reads this document 9 to refrain from using the word 10 "suspicious" in communication because 11 once McKesson deems an order suspicious, 12 McKesson is required to act. 13 Isn't it a good thing that 14 McKesson should act when they find out an 15 order is suspicious, do you have any 16 problems with that? 17 A. Sir, when we find an order 18 to be suspicious and a customer to be 19 suspicious, we would act. But when we 20 first see a customer and we might call 21 them a customer of interest, as we 22 conduct our review and due diligence, so 23 for instance, while I'm doing my research 24 of a customer and I'm doing my research</p>

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1 of his purchase patterns, okay, I don't
2 call them suspicious until I deem that
3 there is actual suspicious activity. And
4 at that point I would say there is
5 suspicious customer intake action.
6 But prior to that, they were
7 a customer of -- of interest that I would
8 be reviewing.
9 Q. Now, sir, let me ask you. I
10 want -- I want to -- read this with me
11 one time. Would you read that out loud
12 where it says refrain. Please read that
13 to me.
14 A. "Refrain from using the word
15 'suspicious' in communications."
16 Q. Go ahead.
17 A. Oh.
18 "Once McKesson deems an
19 order and/or customer suspicious,
20 McKesson is required to act. This means
21 all controlled substance sales to that
22 customer must cease and the DEA must be
23 notified."
24 Which is what we did.

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1 Q. Well, here you're saying
2 don't use the word "suspicious," because
3 once you do that, it kicks into play the
4 fact that you have a responsibility, is
5 that correct?
6 Once the word "suspicious"
7 is used, McKesson has responsibility to
8 get control of the problem, is that a yes
9 or a no?
10 A. Once we deem them suspicious
11 we took action on them.
12 Q. And we saw earlier, 318
13 times, where -- where there was no --
14 there was no suspicious order that was --
15 that was given to the DEA, right, 318
16 times?
17 MS. HENN: Objection to
18 form.
19 BY MR. PAPANTONIO:
20 Q. We saw that, right?
21 A. It was in the document.
22 Q. And here, this document
23 we're looking at, says don't use the word
24 "suspicious," because if you do, that's

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1 going to require McKesson to do
2 something. Right? McKesson is required
3 to act?
4 MR. PAPANTONIO: Would you
5 underline "required to act"?
6 BY MR. PAPANTONIO:
7 Q. Required to act. Right?
8 A. Right. The date on this
9 document is 2013.
10 Q. So what? Who cares? Is
11 that important?
12 MS. HENN: Counsel.
13 BY MR. PAPANTONIO:
14 Q. I'm interested to know, why
15 is that important?
16 A. Only that if this was given
17 to in us 2013 and you are referring to
18 actions that took place in 2011.
19 Q. You knew you were supposed
20 to report suspicious orders all the way
21 back to the first time you sold your
22 first pill, didn't you?
23 A. That is correct. And we
24 always did and -- and do. And that's why

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1 we had a manual system when I came into
2 regulatory in '07, and it has since been
3 automated for us to be able to review
4 more customers more quickly.
5 Q. Sir, we're going to have my
6 partner Eric Kennedy talk to you about
7 what you did and didn't do. Give us a
8 minute. We're going to change positions;
9 okay?
10 A. All right.
11 MR. PAPANTONIO: Take a
12 break for five minutes.
13 THE VIDEOGRAPHER: All
14 right. Take off your microphone.
15 MR. PAPANTONIO: Yep.
16 THE VIDEOGRAPHER: The time
17 is 1:43 p.m. Going off the
18 record.
19 (Short break.)
20 THE VIDEOGRAPHER: We are
21 back on the record. The time is
22 1:49 p.m.
23 - - -
24 EXAMINATION

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<p>1 - - -</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. Mr. Oriente, my name is Eric</p> <p>4 Kennedy, I also represent the plaintiffs</p> <p>5 in this case. All right?</p> <p>6 A. Mm-hmm.</p> <p>7 Q. And I'm going to ask you a</p> <p>8 few questions. I'm going to try not to</p> <p>9 be repetitious of -- of what you've</p> <p>10 already answered.</p> <p>11 All right?</p> <p>12 A. Okay. Thank you.</p> <p>13 Q. Let me start by asking</p> <p>14 this -- this relatively simple question.</p> <p>15 From -- from everything that</p> <p>16 you've heard this morning, from</p> <p>17 everything that you have answered this</p> <p>18 morning, can we agree that McKesson</p> <p>19 played some role in causing the opioid</p> <p>20 crisis that we have in this country?</p> <p>21 MS. HENN: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: I would say</p> <p>24 that we did our due diligence to</p>	<p>1 when we start off, I want to understand</p> <p>2 your position from everything that we</p> <p>3 have heard, McKesson played zero role in</p> <p>4 causing the opioid crisis that we have in</p> <p>5 America today?</p> <p>6 MS. HENN: Objection to</p> <p>7 form.</p> <p>8 BY MR. KENNEDY:</p> <p>9 Q. Is that correct? And that's</p> <p>10 a clear yes or no.</p> <p>11 A. I don't believe we caused</p> <p>12 it.</p> <p>13 Q. I didn't say that. Did you</p> <p>14 play a role --</p> <p>15 MS. HENN: Counsel.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. My question is very simple.</p> <p>18 Would you agree that McKesson played a</p> <p>19 role, they didn't cause it all, but</p> <p>20 played a role in the crisis that we have</p> <p>21 in America today as it relates to</p> <p>22 prescription opioids?</p> <p>23 MS. HENN: And, Counsel, I</p> <p>24 would just ask that you let the</p>
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<p>1 the best of our ability with the</p> <p>2 information we had and made sure</p> <p>3 that what we were distributing to</p> <p>4 pharmacies was going towards</p> <p>5 medical purposes and that they</p> <p>6 were going towards filling</p> <p>7 prescriptions that were written by</p> <p>8 doctors.</p> <p>9 And in -- if and when we</p> <p>10 determined they weren't, we took</p> <p>11 action to not ship additional</p> <p>12 product, as demonstrated by the</p> <p>13 pharmacies that -- that I closed.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. So is the answer to my</p> <p>16 question "yes"?</p> <p>17 MS. HENN: Objection to</p> <p>18 form.</p> <p>19 BY MR. KENNEDY:</p> <p>20 Q. Is the answer to my question</p> <p>21 "yes"?</p> <p>22 A. I would say no, it isn't a</p> <p>23 yes.</p> <p>24 Q. So it's your position, just</p>	<p>1 witness finish his answers.</p> <p>2 MR. KENNEDY: I'm sorry.</p> <p>3 THE WITNESS: We did play a</p> <p>4 role as a distributor, yes.</p> <p>5 MR. KENNEDY: That's all I'm</p> <p>6 asking.</p> <p>7 MS. HENN: Are you done with</p> <p>8 your answer?</p> <p>9 THE WITNESS: Yes, I am.</p> <p>10 Thank you.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. Now, let me ask you -- I</p> <p>13 want to -- there may be some things that</p> <p>14 we can very easily agree upon. All</p> <p>15 right? Because I want to ask you about</p> <p>16 what McKesson knew or should have known</p> <p>17 what was going on in America as we</p> <p>18 continue to discuss what they did and</p> <p>19 didn't do. All right?</p> <p>20 A. All right.</p> <p>21 Q. Late '90s, early 2000s, we</p> <p>22 have an opioid crisis in the United</p> <p>23 States of America. True?</p> <p>24 A. I'm not familiar that far</p>

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1 back, because I wasn't in regulatory in
2 the late '90s.
3 Q. Well, let me ask you this,
4 sir. You've been in the pharmacy
5 industry since 1999, have you not?
6 A. I worked for Eckerd Drug at
7 that time, yes.
8 Q. And they are in the pharmacy
9 industry, are they not?
10 A. Yes.
11 Q. And then you came to
12 McKesson in '04, correct?
13 A. That is correct.
14 Q. And into regulatory in '07,
15 correct?
16 A. That is correct.
17 Q. You read newspapers in the
18 2000s, did you not?
19 A. I was not aware that there
20 was the epidemic that existed when I
21 moved into regulatory in '07.
22 Q. You knew that by 2001,
23 4.8 million Americans had reported in the
24 media and to the CDC, 4.8 million

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1 admitted to abusing prescription opioids
2 by 2001?
3 MS. HENN: Objection to
4 form.
5 BY MR. KENNEDY:
6 Q. You didn't understand that?
7 A. It wasn't that I didn't
8 understand that. I wasn't aware that
9 that was the number at 2001, sir.
10 Q. By 2007, when you went into
11 regulatory, McKesson was already
12 admitting internally, were they not, they
13 were already admitting internally that
14 opioids, prescription opioids that you
15 were selling, were killing more Americans
16 than cocaine and heroin combined, true?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: I don't know
20 that McKesson was admitting that.
21 I have -- I heard it in the
22 newspapers and such and on the
23 news. But I did not hear it
24 internally with McKesson

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1 correspondence.
2 MR. KENNEDY: Would you give
3 me 5015, please.
4 Exhibit -- McKesson exhibit,
5 I'm sorry, 545.
6 MS. ROZMAN: No, it's MCK
7 Oriente 545. I'm sorry.
8 MS. HENN: And just for the
9 record, I'd note that these
10 documents have highlighting, is
11 that --
12 MR. KENNEDY: Yes,
13 highlighting is all by me and
14 there will be writing and it's all
15 by me.
16 MS. HENN: Thank you.
17 (Document marked for
18 identification as Exhibit
19 MCK-Oriente-545.)
20 BY MR. KENNEDY:
21 Q. McKesson document, sir, is
22 McKesson up in the right-hand corner?
23 A. Yes.
24 Q. It looks like it's a

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1 national operations conference from 2007,
2 true? A national conference?
3 A. Yes, sir.
4 Q. And who is Don Walker?
5 A. Don Walker was the senior
6 vice president in distribution
7 operations.
8 Q. Did you work in operations?
9 A. I did from '04 through late
10 '07.
11 Q. Go to Page .3, if you would.
12 This is a McKesson document.
13 Are they telling all folks,
14 at this national conference, "Opioid
15 painkillers kill more than cocaine and
16 heroin combined," on .3?
17 A. Yes, that's highlighted
18 here.
19 Q. So McKesson knows it, and
20 they are telling their folks internally
21 by 2007, true?
22 A. Yes. That's noted here.
23 Q. And certainly, sir, given
24 the fact that you work in the pharmacy

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1 industry since 1999, you knew and
2 understood that the opioid crisis in
3 America was addicting and killing more
4 Americans every single year, '01, '02,
5 '04, '05, right up to the time that you
6 moved into regulatory, sir, correct?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: I see it here.
10 I didn't recall it previously that
11 that statement was made.
12 BY MR. KENNEDY:
13 Q. As someone in the industry,
14 sir, since 1999, McKesson since '04, you
15 did not understand that the crisis was
16 getting worse every year?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: I did know
20 that the crisis was increasing. I
21 just don't recall having seen it
22 in a document that you're
23 presenting here.
24 BY MR. KENNEDY:

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1 Q. Let's talk about diversion.
2 Tell us what diversion is.
3 A. Diversion would be the
4 misuse of controlled substances for
5 nonmedical purposes.
6 Q. A lot of diversion occurs at
7 the pharmacy level, true?
8 A. There -- I can't say what
9 percent occurs at the pharmacy level.
10 There is internal diversion and theft as
11 well as, you know, external diversion
12 where scripts are filled for nonmedical
13 reasons.
14 Q. And McKesson certainly knew,
15 understood, as you did, as early as 2002
16 that diversion, the movement of opioids,
17 of narcotics into illegal markets was
18 occurring in the United States, they
19 understood that, did they not?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: I can't speak
23 for all of McKesson. But I would
24 say that in that time frame, yes,

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1 we were aware that there --
2 certainly there was some diversion
3 going on.
4 BY MR. KENNEDY:
5 Q. It was a significant problem
6 in America. It wasn't some going on. It
7 was a big problem in America that was
8 contributing to the crisis, was it not?
9 MS. HENN: Objection to
10 form.
11 THE WITNESS: There was
12 diversion going on, sir. I didn't
13 measure the amount of total
14 diversion going on.
15 MR. KENNEDY: Give me 1076
16 please.
17 MS. ROZMAN: This is MCK
18 Oriente 515.
19 (Document marked for
20 identification as Exhibit
21 MCK-Oriente-515.)
22 BY MR. KENNEDY:
23 Q. Sir, you've -- you've heard
24 of the -- the General Accounting Office

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1 of the United States government, have you
2 not?
3 A. Yes, I've heard of the GAO.
4 Q. This is a May 2002 report,
5 titled "Prescription Drugs: State
6 Monitoring Programs Provide Useful Tool
7 to Reduce Diversion." Do you see that?
8 A. Are you referring to the
9 highlighted paragraph on Page 2?
10 Q. I'm referring to the title
11 of it, sir.
12 A. Okay.
13 Q. That's what it's titled,
14 "Prescription Drugs"?
15 A. Yes.
16 Q. If you look at the next page
17 which is .6, do you see the highlighted
18 portion? And this is 2002. "The
19 diversion and abuse of prescription drugs
20 are associated with incalculable costs to
21 society in terms of addiction, overdose,
22 death, and related criminal activities."
23 Did I read that right? Sir?
24 A. Yes.

<p style="text-align: right;">Page 334</p> <p>1 Q. And it continues, "DEA has 2 stated that the diversion and abuse of 3 legitimately produced controlled 4 pharmaceuticals constitutes a 5 multibillion-dollar illicit market 6 nationwide." Do you see that? 7 A. Yes. 8 Q. And if your company McKesson 9 is the largest distributor of these 10 narcotics in the country, they certainly 11 should know about what's going on with 12 diversion of the drugs that they are 13 selling to pharmacies, can we agree with 14 that? 15 MS. HENN: Objection to 16 form. 17 BY MR. KENNEDY: 18 Q. Can we agree with that, sir? 19 MS. HENN: Objection to 20 form. 21 THE WITNESS: Yes, they... 22 BY MR. KENNEDY: 23 Q. They should know that? 24 A. They should know about the</p>	<p style="text-align: right;">Page 336</p> <p>1 can you agree that by the -- by the early 2 2000s, it had become evident that the DEA 3 by itself could not monitor and prevent 4 diversion of narcotics into our 5 communities. They couldn't do it by 6 themselves. Correct? 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: I don't know 10 what they can and couldn't do. 11 I know that the requirement 12 was for a distributor to have a 13 program in place to monitor -- 14 monitor and detect suspicious 15 ordering. 16 MR. KENNEDY: Give me 1086. 17 BY MR. KENNEDY: 18 Q. I'm asking about the DEA and 19 their abilities and -- and what McKesson 20 knew and understand about the DEA's 21 ability to handle the problem by 22 themselves. All right? And it was known 23 by the early 2000s that the DEA by 24 themselves could not prevent the</p>
<p style="text-align: right;">Page 335</p> <p>1 diversion. This document was from I 2 believe '02. 3 Q. Yes, sir. 4 A. I was not at McKesson at the 5 time. 6 Q. But you're part of the 7 industry. 8 A. When -- 9 Q. Are you denying the fact 10 that McKesson is the largest distributor 11 of opioids in this country, are you 12 denying the fact that they ought to know 13 about the extent of diversion, sir? 14 MS. HENN: Objection to 15 form. 16 THE WITNESS: No, I did not 17 say that they should not know 18 about it. I'm just stating that 19 in '02 when this document came out 20 I did not work for McKesson. 21 BY MR. KENNEDY: 22 Q. Can you agree with me, sir, 23 as part of this industry, and someone who 24 has dealt with the DEA his entire career,</p>	<p style="text-align: right;">Page 337</p> <p>1 diversion of narcotics into our 2 communities. It was known, was it not? 3 MS. HENN: Objection to 4 form. 5 THE WITNESS: Sir, I -- I 6 could not say whether the -- what 7 resources the DEA has for them to 8 do their ability. 9 So I really can't comment 10 whether they could do it alone or 11 not, sir. I know our requirement 12 is to have a system in place to 13 report -- 14 BY MR. KENNEDY: 15 Q. We'll talk about that. I 16 just want to ask about -- 17 MS. HENN: Counsel, let's 18 let him answer the question 19 please. 20 MR. KENNEDY: Go ahead. 21 MS. ROZMAN: This is Exhibit 22 MCK Oriente 518. 23 MS. HENN: Did you have any 24 more you wanted to add?</p>

<p style="text-align: right;">Page 338</p> <p>1 THE WITNESS: No. 2 MS. HENN: All right. So 3 I'm handing the witness MCK 4 Oriente 518. 5 (Document marked for 6 identification as Exhibit 7 MCK-Oriente-518.) 8 BY MR. KENNEDY: 9 Q. See this -- this stated 10 memorandum for ASA Hutchinson, 11 administrator, Drug Enforcement 12 Administration. Do you see that? 13 A. Yes. 14 Q. And it's from the Inspector 15 General. Have you ever heard of the 16 Inspector General of the United States of 17 America? 18 A. Yes, I have. 19 Q. "Subject, review of Drug 20 Enforcement Administration's 21 investigations of the diversion of 22 controlled pharmaceuticals. Report 23 number I-2002-010." Do you see that, 24 sir?</p>	<p style="text-align: right;">Page 340</p> <p>1 document here. Where is that on this 2 document? 3 Q. It's on .4, Page .4 up in 4 the right corner, right upper corner, 5 sir. 6 A. Okay. 7 MS. HENN: And you can take 8 your time to review it. 9 BY MR. KENNEDY: 10 Q. Does the Inspector General 11 state here in 2002, "Our review found 12 that DEA's enforcement efforts have not 13 adequately addressed the problem of 14 controlled pharmaceutical diversion"? 15 Does it state that, sir? 16 A. It does. 17 Q. "Despite the widespread 18 problem of pharmaceutical abuse, the DEA 19 has dedicated only 10 percent of its 20 field investigator positions to diversion 21 investigations," sir. Do you see that? 22 A. Yes. It says only 23 10 percent. 24 Q. McKesson is the largest</p>
<p style="text-align: right;">Page 339</p> <p>1 A. Yes, that's in the subject 2 line. 3 Q. Does the first title state, 4 "Attached is the final report covering 5 our review of the Drug Enforcement 6 Administration's, DEA, efforts to 7 investigate cases of controlled 8 pharmaceutical diversion"? Does it state 9 that, sir? 10 A. It does. 11 Q. If you'll go to -- 12 MS. HENN: Counsel, does 13 this document have a date? 14 MR. KENNEDY: This is from 15 2002. 16 MS. HENN: Thank you. 17 BY MR. KENNEDY: 18 Q. And if you'll go, sir, to 19 .4. 20 A. 10 percent is all they are 21 diverting. 22 Q. Are you on .4? It's up on 23 the screen. 24 A. Yeah, I'm looking at the</p>	<p style="text-align: right;">Page 341</p> <p>1 distributor of pharmaceuticals, 2 controlled substances in the country. 3 Shouldn't they understand the abilities, 4 inabilities of the DEA in fighting this 5 problem of diversion? Shouldn't they 6 understand that? 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: Sir, I'm -- 10 I'm not, you know, in a position 11 to determine what abilities the 12 DEA has. 13 As far as McKesson, we took 14 our responsibilities, you know, 15 seriously as a distributor and we 16 had our programs in place. 17 And to -- here I'm reading 18 that the DEA only used 10 percent 19 of its field investigators to look 20 at the problem, and that the 21 overall investigators decreased 22 3 percent during this problem. 23 BY MR. KENNEDY: 24 Q. Do you have --</p>

<p style="text-align: right;">Page 342</p> <p>1 A. So for me to say what the 2 DEA should be doing is not in -- is 3 really not my place, sir. 4 Q. I'm just -- I'm just asking 5 you what the largest distributor in the 6 world should understand about the 7 limitations of the DEA. All right? 8 A. Mm-hmm. 9 Q. But you said something, and 10 I'm going to write it down. 11 I started to write it down. 12 Because we're going to talk about this in 13 a minute. 14 You just said that McKesson 15 took our -- quote, "took our 16 responsibilities very seriously." 17 Is that what you just told 18 me? 19 MS. HENN: Objection to 20 form. 21 BY MR. KENNEDY: 22 Q. "McKesson took our 23 responsibilities very seriously." Is 24 that what you just told me?</p>	<p style="text-align: right;">Page 344</p> <p>1 on in the -- in the industry 2 that -- that we're regulated in. 3 BY MR. KENNEDY: 4 Q. And they are being regulated 5 by the DEA, right? 6 A. That is correct. 7 MR. KENNEDY: Give me 1088, 8 please. 9 MS. HENN: I'm sorry, did 10 you -- 11 THE WITNESS: I said one of 12 the agencies that regulates us. 13 We also have FDA. 14 MS. ROZMAN: This is MCK 15 Oriente Exhibit 519. 16 THE WITNESS: Thank you. 17 (Document marked for 18 identification as Exhibit 19 MCK-Oriente-519.) 20 BY MR. KENNEDY: 21 Q. Does it say up here on the 22 left of the cover page, "U.S. Department 23 of Justice, Office of the Inspector 24 General, Evaluation and Inspections</p>
<p style="text-align: right;">Page 343</p> <p>1 A. I believe that's what I 2 said, yes. 3 Q. We'll come back to that, all 4 right. 5 The United States of America 6 was so concerned about this crisis and 7 about the DEA's ability, they did another 8 follow-up study in 2006. 9 Can we agree that if the 10 federal government is reporting a study 11 with respect to the DEA's ability to 12 fight diversion, McKesson as the largest 13 distributor of these narcotics should 14 know and understand that, sir? 15 MS. HENN: Objection to 16 form. 17 THE WITNESS: Sir, it -- 18 BY MR. KENNEDY: 19 Q. I'm just -- can you agree 20 they should know that? 21 MS. HENN: Objection to 22 form. 23 THE WITNESS: I believe 24 McKesson should know what is going</p>	<p style="text-align: right;">Page 345</p> <p>1 Division." Is that what it states? 2 A. It does say that. 3 Q. Is the title of this report, 4 "Follow-up of the Drug Enforcement 5 Administration's efforts to control the 6 diversion of controlled pharmaceuticals"? 7 Does it state that, sir, is that the 8 title of this program? 9 A. Yes, it is. 10 Q. And this is July of 2006. 11 Would that be correct? 12 A. That's what's stated here, 13 yes. 14 Q. And if you go to Page .5 in 15 the upper right-hand corner. Now, this 16 is the follow-up of the DEA by the 17 federal government. 18 And this follow-up in '06, 19 they state, "Despite these positive 20 actions, we identified several continuing 21 concerns. We found that although the 22 need for special agent assistance in 23 diversion investigations had increased 24 significantly since our previous review,</p>

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1 the time spent by special agents
2 assisting diversion investigations still
3 constitutes a small share of their total
4 investigative effort."
5 Do they state that, sir?
6 A. Yes, that's written here.
7 Q. They continue to state: "In
8 addition, we've found that the DEA still
9 had not resolved the complicated issue of
10 providing law enforcement authority for
11 diversion investigators, although it is
12 actively pursuing this matter. Further,
13 we found that few DEA special agents had
14 received diversion control training
15 beyond the two-hour module provided
16 during basic agent training."
17 And finally: "In addition,
18 the support provided by intelligence
19 analysts to diversion groups in the field
20 has continued to be limited, and
21 intelligence analysts still received
22 minimal diversion control training."
23 Tell me, '06, you're working
24 at McKesson. Who read this report at

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1 McKesson to understand the limitations of
2 the DEA in assisting and controlling the
3 flow of narcotics to pharmacies?
4 MS. HENN: Objection to
5 form.
6 BY MR. KENNEDY:
7 Q. Who?
8 MS. HENN: Same objection.
9 THE WITNESS: I cannot tell
10 you who read this report. I know
11 that I did not.
12 BY MR. KENNEDY:
13 Q. And at this point in time,
14 you understand, you've been in the
15 industry since '99. What do we have,
16 40-, 50-, 60,000 pharmacies in the United
17 States at this time, correct, in '06?
18 MS. HENN: Objection to
19 form.
20 THE WITNESS: I don't know
21 the exact amount of pharmacies in
22 the United States in '06, sir.
23 BY MR. KENNEDY:
24 Q. Certainly McKesson knew and

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1 understand that the DEA alone could not
2 monitor 40-, 50-, 60,000 pharmacies,
3 true?
4 MS. HENN: Objection to
5 form.
6 THE WITNESS: I'm sorry. I
7 can't comment on what the DEA's
8 abilities are.
9 BY MR. KENNEDY:
10 Q. You talked a lot with
11 Mr. Papantonio. You talked a lot about
12 suspicious orders. Do you remember all
13 that discussion?
14 A. Yes.
15 Q. And I think you agreed with
16 him that -- that legally, the law
17 requires that McKesson, number one,
18 identify suspicious orders from
19 pharmacies, correct?
20 A. Yes.
21 Q. And number two, I think you
22 agreed that the law requires that
23 McKesson, when it identifies a suspicious
24 order, that they report that to the DEA,

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1 correct?
2 A. Yes, sir.
3 Q. And when this new program,
4 this enhanced program came in in 2008,
5 can we agree that McKesson knew and
6 understood not only did they have to
7 recognize suspicious orders, not only is
8 it their lawful duty to report those to
9 the DEA, but they knew and understood
10 that the DEA expected them to not ship
11 suspicious orders?
12 A. Yes. Once an order was
13 identified as suspicious, it should not
14 be shipped.
15 Q. Sir, I'm going to ask you
16 some questions now about -- that maybe
17 will explain some -- some things.
18 We talked about a lot of
19 suspicious orders that you didn't report
20 to the DEA this morning, correct?
21 MS. HENN: Objection to
22 form.
23 BY MR. KENNEDY:
24 Q. Correct, sir?

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1 A. They -- they were noted in
2 the report. I'm -- I'm not familiar with
3 which ones the DEA is saying suspicious
4 that I did not report.
5 Q. I understand. But you --
6 you weren't questioning the accuracy of
7 those DEA reports this morning, they
8 weren't making that stuff up, right?
9 A. I don't believe they were,
10 no.
11 Q. And I want to take a look,
12 maybe with a little bit of detail, as to
13 why that happened. All right?
14 A. Yes.
15 Q. As I ask you questions
16 though, and as we talk about what
17 McKesson did and didn't do, as we talk
18 about the decisions that McKesson has
19 made along the way, can we agree that
20 it's important to evaluate McKesson's
21 decisions within the framework of what
22 was going on in America at the time, can
23 we agree to that?
24 MS. HENN: Objection to

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1 form.
2 THE WITNESS: You're saying
3 looking back at it now?
4 BY MR. KENNEDY:
5 Q. That's what we're going to
6 do. We're going to -- we're going to
7 look back at that new program in '08, and
8 when we look at the decisions that
9 McKesson made along the way, it's
10 important to look at those decisions
11 within the context of what was going on
12 in America; number one, a crisis, number
13 two, diversion, and number three, a DEA
14 that needed help. All right?
15 MS. HENN: Objection to
16 form.
17 BY MR. KENNEDY:
18 Q. Can we do that?
19 MS. HENN: Same objection.
20 THE WITNESS: Okay.
21 BY MR. KENNEDY:
22 Q. And let's look at the
23 controlled substances monitoring program
24 that came into effect at McKesson in

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1 2008. All right. That's where I want to
2 focus maybe the rest of the afternoon.
3 All right?
4 A. Mm-hmm.
5 Q. You were a director of
6 regulatory affairs when this new program
7 came into place, true?
8 A. Yes.
9 Q. A national program, true?
10 A. Yes.
11 Q. Managed and implemented in
12 the same fashion nationally, correct?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: It was rolled
16 out on a national level.
17 Depending on the region where we
18 administered it, different regions
19 in the country had different
20 controlled substance problems.
21 Some being hydrocodone, others
22 being oxycodone.
23 So there would be some
24 differences within a regional area

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1 of what base codes were being
2 identified as problematic.
3 BY MR. KENNEDY:
4 Q. That might have been
5 different, sir. But the program, the
6 printed program that -- that we have
7 looked at, that you have in front of you,
8 Exhibit 62, this program was a national
9 program, correct?
10 A. Yes. One program.
11 Q. There wasn't a different
12 detailed and documented McKesson
13 operation manual -- manual for controlled
14 substances. There wasn't a different one
15 in the West, and the East and Midwest,
16 true?
17 A. That's correct.
18 Q. It was the same program and
19 the intention and actuality was, this was
20 implemented and managed uniformly across
21 this country, sir --
22 MS. HENN: Objection to
23 form.
24 THE WITNESS: Yes.

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1 BY MR. KENNEDY:
2 Q. Now, this monitoring program
3 of 2008, it was structured around the
4 creation of thresholds, true?
5 A. Yes.
6 Q. Thresholds or -- or
7 limitations, we're going to call them.
8 Threshold limitations, all right?
9 A. Yes.
10 Q. And a threshold was a
11 limitation that was put on each specific
12 opioid that you sold, true?
13 A. It was a monthly threshold
14 set on all base codes, not just opioids.
15 Q. All right. But we're going
16 to talk about opioids.
17 A. Okay.
18 Q. We're going to talk about
19 narcotics. All right?
20 A. Okay.
21 Q. We're going to talk about
22 painkilling neurotics -- narcotics and
23 opiates. So you understand what I am
24 talking about, right?

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1 A. Mm-hmm. Yes.
2 Q. And the threshold for the
3 system that McKesson set up as part of
4 its 2008 program whereby you would set a
5 threshold or a limitation on each
6 specific narcotic, true?
7 A. It would be on a base code
8 level. So for instance, all your
9 oxycodone-based products that the DEA
10 deemed the base ingredient being
11 oxycodone would be under one base code,
12 and that's base code 9143 oxycodone, and
13 all strengths within oxycodone were in
14 that base code.
15 So whether you were
16 10-milligram, 15-milligram, 30-milligram,
17 it all got added up, and they had one
18 base code for oxycodone.
19 Q. Okay. Base code for
20 oxycodone.
21 A. And one threshold.
22 Q. So you've got a threshold
23 for oxycodone, correct?
24 A. Mm-hmm. Yes, sir.

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1 Q. And each one of your
2 customers, each different pharmacy would
3 have a different threshold for oxycodone?
4 A. It -- some may have the same
5 threshold. It wasn't different --
6 Q. And that would -- that would
7 be just coincidence, correct?
8 A. Well, they could have --
9 with -- with hundreds and hundreds of
10 customers, customers could have the same
11 threshold, sir.
12 Q. Absolutely. But every
13 customer -- well, we'll take a look and
14 go through this.
15 Oxycodones, each customer
16 would have a threshold for oxycodones?
17 A. Their threshold would be
18 based off of their previous purchasing.
19 Q. I'm not asking what -- would
20 you just listen to my questions?
21 A. I'm --
22 Q. Every -- I'm going to ask
23 you. When I want an explanation I'll ask
24 for one.

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1 Every customer, every
2 customer would have a threshold for
3 oxycodone, correct?
4 A. Yes.
5 Q. And every customer would
6 have a threshold for hydrocodone,
7 correct?
8 A. Correct.
9 Q. And each grouping of
10 different narcotic would have a threshold
11 for each customer, correct?
12 A. Correct.
13 Q. All right. It was the
14 monthly limitation, correct?
15 A. Yes.
16 Q. It was done on a monthly
17 basis, correct?
18 A. Yes. It would reset after
19 each month.
20 Q. All righty. If we can look
21 at 62. I believe you -- you have 62,
22 Exhibit 62, which is 345.
23 MS. HENN: That's the
24 McKesson operations manual. The

<p style="text-align: right;">Page 358</p> <p>1 sticker with 62 on it. 2 BY MR. KENNEDY: 3 Q. Yes, this is the -- sir, 4 we're going to use this a lot. This is 5 the McKesson operations manual, correct? 6 A. Yes, sorry, I have it in 7 front of me. 8 Q. Came into place in 2008, 9 correct? 10 A. I believe that was the time 11 frame. This one is dated 2013. But it 12 may have just been an update, I'm not 13 sure. 14 Q. Well, if you -- if you look 15 at .27, you'll see that this comes into 16 play in February of 2008, correct, Page 17 27 up in the right. 18 A. Page 27, did you say? 19 Q. .27, upper right. 20 A. Okay. Sorry about that. 21 Revision 1, February 2008. 22 Yes, sir. 23 Q. And if you go to page .2, if 24 you would, of your manual.</p>	<p style="text-align: right;">Page 360</p> <p>1 pharmacy volume. 2 Q. And -- 3 MR. KENNEDY: If you'll give 4 me 509 please -- 5009. 5 MS. ROZMAN: Which is MCK 6 Oriente 539. 7 (Document marked for 8 identification as Exhibit 9 MCK-Oriente-539.) 10 BY MR. KENNEDY: 11 Q. This is something we 12 created, sir, because I want to be very 13 clear about these thresholds. 14 Number one, thresholds with 15 respect to this 2008 monitoring program, 16 they were a critical component of that 17 program, were they not? 18 MS. HENN: Counsel, what's 19 that quoting? It's not clear from 20 the document. 21 MR. KENNEDY: We'll go to 22 each document if you want to look 23 at the quote. All right? 24 MS. HENN: I'm -- I'm</p>
<p style="text-align: right;">Page 359</p> <p>1 A. Yes. 2 MR. KENNEDY: Do we have .2? 3 BY MR. KENNEDY: 4 Q. Your manual states, "All 5 McKesson customers are evaluated and 6 classified into like business segments 7 based upon type of business and monthly 8 dollar prescription sales." And this is 9 all under threshold limits, correct? 10 A. Yes, it is. 11 Q. "Additionally, Six Sigma 12 analysis helped to identify appropriate 13 threshold amounts for every controlled 14 substance for all and every family type." 15 Correct? 16 A. Yes, sir. 17 Q. "Out of that information, a 18 matrix of family codes and threshold 19 amounts were developed." Correct? 20 A. Yes, sir. 21 Q. So it was an entire process 22 that you would go through to establish 23 thresholds, true? 24 A. Yes. By business type and</p>	<p style="text-align: right;">Page 361</p> <p>1 just -- 2 BY MR. KENNEDY: 3 Q. Can you agree with that 4 statement, sir, that thresholds with 5 respect to your program that McKesson 6 implemented, that you managed, thresholds 7 were a critical part of the program, 8 true? 9 A. Thresholds -- excuse me. 10 Thresholds were a critical aspect of -- 11 part of the program, yes. 12 Q. And from what we just looked 13 at, McKesson took great care in setting 14 those thresholds for each of its 15 customers for each of the controlled 16 substances, correct? 17 A. We took great care in 18 setting thresholds based off of the 19 customer's past historical volume and 20 also by base code, yes. 21 Q. And with respect to each 22 customer, you considered, in creating 23 those thresholds, you considered each 24 customer to be unique so their threshold</p>

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1 was specific to each customer's business
2 needs, correct?
3 MS. HENN: Objection to
4 form.
5 THE WITNESS: They were
6 unique and we also had what is
7 known as default thresholds, which
8 is a minimum amount that a
9 customer would be assigned, if
10 they were -- they were a new
11 customer or hadn't purchased a
12 significant amount and a default
13 number was used.
14 BY MR. KENNEDY:
15 Q. And McKesson would make
16 informed decisions based upon the
17 established threshold information, true?
18 A. We used their past 12-month
19 history.
20 Q. Is that true, sir? Is that
21 statement true?
22 A. Yes, we used their 12-month
23 history.
24 Q. And you used the threshold

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1 to make informed decisions, correct, sir?
2 A. It was one of the --
3 MS. HENN: Objection to
4 form. Go ahead.
5 THE WITNESS: It was one of
6 the decision points, yes.
7 BY MR. KENNEDY:
8 Q. And in 2008, after paying
9 \$13 million -- a \$13 million fine with
10 respect to your settlement with the DOJ
11 and the DEA, at that point in time you
12 agreed, you agreed with the DEA that you
13 would establish a system with thresholds
14 to monitor the flow of opioids, did you
15 not, sir?
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: I believe that
19 was the -- a statement made. Yes,
20 I did not deal directly with DEA,
21 so I can't say exactly what was
22 committed to with them. But I
23 know that we set thresholds for
24 monitoring.

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1 BY MR. KENNEDY:
2 Q. Let me ask you. You were in
3 charge of this program. Nobody told you
4 that one of the agreements with the DEA
5 is that you would create a system of
6 thresholds going forward?
7 A. We -- we --
8 Q. I'm only asking. Did
9 anybody tell you that that was part of
10 the agreement with the DEA in 2008, that
11 you would establish thresholds?
12 A. Yes. That's how we created
13 the thresholds to start.
14 Q. And when you first put this
15 program in place in 2008, sir, would I be
16 correct that you represented to the DEA
17 that if McKesson were to change a
18 threshold, increase a threshold, you
19 represented to the DEA that McKesson
20 would require documentation to support
21 the increase?
22 MS. HENN: Objection to
23 form.
24 THE WITNESS: I am

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1 unfamiliar with what was said to
2 DEA regarding threshold increases.
3 I know when we made threshold
4 increases we did reviews --
5 BY MR. KENNEDY:
6 Q. Sir, I'm just asking was
7 that represented --
8 MS. HENN: Counsel, please.
9 MR. KENNEDY: He's not
10 answering my question.
11 BY MR. KENNEDY:
12 Q. Was that represented to the
13 DEA, that if you were to increase a
14 threshold, documentation would be
15 required, was that what you told them?
16 MS. HENN: Objection to
17 form. And I just really would
18 appreciate if he were permitted to
19 finish his answers, Counsel.
20 BY MR. KENNEDY:
21 Q. Is that what was
22 represented, sir?
23 A. I -- I did not speak to DEA
24 so I don't know what was conveyed to

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1 them. I know that when we did a
 2 threshold review, part of our
 3 documentation was to have a report
 4 outlining the details that we used to
 5 review the threshold and what the
 6 threshold was, what it was going to, and
 7 why we made that threshold change.
 8 But I don't know what was
 9 conveyed to the DEA, because I did not
 10 communicate with them.
 11 Q. Sir, I just -- I just
 12 listened to your answer. Let me write
 13 something down if I could have the Elmo
 14 again.
 15 You just told us that when
 16 you made an increase in the threshold you
 17 would have a report as to the reason; is
 18 that correct?
 19 A. There would be a reason --
 20 MS. HENN: Objection to
 21 form. Go ahead.
 22 THE WITNESS: There would be
 23 a reason asking why -- what --
 24 what type of business change

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1 required the -- the pharmacy to
 2 request additional product.
 3 BY MR. KENNEDY:
 4 Q. So business change, right?
 5 What else, report as to the reason.
 6 You're looking for a business change.
 7 Like for example, like one of our main
 8 customers are -- one of our main
 9 competitors down the street closed,
 10 correct?
 11 A. Correct, that would be an
 12 example.
 13 Q. Or a new hospital moved into
 14 the community so we need more opioids,
 15 right?
 16 A. Correct.
 17 Q. That's the kind of thing you
 18 were looking for?
 19 A. Yes, sir.
 20 Q. What else for a change, an
 21 increase in that threshold?
 22 A. If there was an acquisition
 23 made where the pharmacy bought another
 24 pharmacy.

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1 Q. Basically, sir, you're --
 2 you're required to document why you are
 3 making the change, true?
 4 A. We would have a reason as to
 5 why, yes, sir.
 6 Q. All right. Thanks. We're
 7 going to come back to that.
 8 Now, sir, and I'm going to
 9 ask you this a variety of times. Sir,
 10 this whole threshold system that you set
 11 up, that you told the DEA that you would
 12 do, that the DEA required you to do, and
 13 that you did put in place. The reason
 14 that's important is because under your
 15 monitoring program that came in in '08,
 16 the enhanced program, basically the way
 17 it was structured is if a customer would
 18 place an order in any given month over
 19 their threshold, that would trigger a
 20 Level 1 review or investigation, correct?
 21 A. Yes, sir.
 22 Q. And if after Level 1 the
 23 person that did the review wasn't really
 24 satisfied, it could move to Level 2 and

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1 it could even move to Level 3, correct?
 2 A. That is correct.
 3 Q. So you start with Level 1,
 4 you start with Level 2, and at Level 2
 5 and 3, that's where -- that's where an
 6 order might get identified as suspicious
 7 and then reported, correct?
 8 A. It had the potential to be
 9 identified as such, yes. It not always
 10 was.
 11 Q. But if a customer didn't
 12 order over their threshold, there would
 13 not be an automatic triggering of the
 14 Level 1 investigation, correct?
 15 A. That is correct. Because
 16 the Level 1 would get triggered when the
 17 customer had what we called an omit,
 18 which is a stopping of an order from
 19 going through.
 20 Q. That's an order over the
 21 threshold?
 22 A. Correct.
 23 Q. So that's what the
 24 importance of this system is. The

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1 thresholds are the beginning step for you
 2 folks to identify suspicious orders,
 3 correct?
 4 A. It would block a customer
 5 from ordering above their threshold.
 6 Q. It was -- listen to my
 7 question. I didn't ask you anything
 8 about a block. Would you listen to my
 9 questions.
 10 The threshold was the
 11 beginning step in the identification of
 12 the suspicious orders, correct?
 13 A. No. I would say no, sir,
 14 because a customer hitting their
 15 threshold on the last day of the month
 16 for one bottle of 100 pills would not
 17 necessarily be deemed suspicious
 18 because --
 19 Q. I'm not talk -- I'm talking
 20 about -- I'm talking about triggering.
 21 I'm talking about the beginning.
 22 The threshold is what
 23 triggers the Level 1, which then moves to
 24 Level 2 and Level 3, correct? So the

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1 first step is the customer orders over
 2 the threshold. If they do, that triggers
 3 a Level 1 investigation.
 4 A. That is true.
 5 Q. All righty.
 6 MR. KENNEDY: Now, can I
 7 have the Elmo for a second,
 8 please.
 9 BY MR. KENNEDY:
 10 Q. I want to go back to your
 11 statement here, sir.
 12 "McKesson took our
 13 responsibilities very seriously." That's
 14 your statement, sir?
 15 A. Right, sir.
 16 Q. And do you know that the
 17 president/CEO of McKesson, you talked
 18 about earlier, he testified on May 18th
 19 of this year in front of Congress.
 20 You've seen some clips of that?
 21 A. Yes, I did.
 22 Q. And do you know -- and you
 23 watched it. Do you remember him saying,
 24 just like you just said, he said that

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1 McKesson took its responsibilities with
 2 respect to monitoring controlled
 3 substances, they took that responsibility
 4 back in '08 very seriously. Do you
 5 remember that?
 6 A. I remember hearing that,
 7 yes.
 8 Q. And that is what you've told
 9 us here today?
 10 A. I did say that, yes.
 11 Q. All right. Now, when
 12 somebody, when a customer would want
 13 to -- let's talk a little bit about how
 14 serious y'all took this.
 15 Customers weren't told what
 16 their threshold was in any particular
 17 drug, right?
 18 A. That is correct. They were
 19 blind to it.
 20 Q. Why is that important?
 21 A. Because if a customer knew
 22 what their threshold was, they would have
 23 the ability to order up to and stay just
 24 below the threshold and never sort of

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1 trip on one of the red flags which was an
 2 omit.
 3 Q. So they don't order above,
 4 you are not going to trigger a Level 1
 5 investigation, right?
 6 A. That is correct, because
 7 they --
 8 Q. So you didn't -- you didn't
 9 tell them their thresholds?
 10 A. That is correct. Because
 11 they were authorized on the size of their
 12 pharmacy to have a monthly threshold set.
 13 For instance, a customer may be
 14 authorized to order 5,000 doses a month.
 15 So if they are ordering 4,800 doses, they
 16 are authorized to order 5,000 --
 17 Q. Sir, sir, I asked you a very
 18 simple question. I asked you a simple
 19 question.
 20 MS. HENN: Counsel --
 21 BY MR. KENNEDY:
 22 Q. If they don't order above,
 23 you don't trigger the Level 1
 24 investigation; is that right?

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1 A. That's correct.
2 Q. Thank you.
3 MS. HENN: And I'll just
4 remind the witness that he is
5 entitled to give his answer to the
6 question.
7 MR. KENNEDY: He's entitled
8 to answer my question.
9 MS. HENN: Right.
10 MR. KENNEDY: Not the
11 question he wants to answer.
12 MS. HENN: Well, we can --
13 MR. KENNEDY: That's what
14 he's entitled to. And nothing
15 more.
16 MS. HENN: And we can
17 disagree about whether you are
18 allowing him to do that.
19 BY MR. KENNEDY:
20 Q. You didn't tell the customer
21 what their threshold was, but you
22 certainly warned them when they got close
23 to their threshold in any given month
24 for, say, OxyContin, correct?

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1 A. There was --
2 Q. Is that correct?
3 A. There was a percentage
4 warning report -- or not warning report.
5 But on the invoice --
6 Q. Sir, listen to my question.
7 A. Yes.
8 Q. The answer is yes, correct?
9 A. Yes.
10 Q. And the first warning that
11 you would give to the customer each month
12 would be right on their invoice, correct?
13 A. Yes.
14 Q. Letting them know they are
15 getting close to their threshold, right?
16 A. Yes.
17 Q. But that's not the only
18 warning you gave customers, is it?
19 A. I'm not familiar with other
20 warnings, sir.
21 Q. Let me ask you this. The
22 customer sees on their -- on their
23 statement, on their -- on their billing
24 that they are getting close to their

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1 threshold. If they call up on the
2 telephone, somebody answers the phone,
3 usually a sales rep, they are told that
4 they are getting close to their threshold
5 if they make that call, correct, they
6 already know, they've seen it on their
7 bill, right?
8 A. It is --
9 MS. HENN: Objection to
10 form. Go ahead.
11 THE WITNESS: If it was on
12 the invoice, they would have that.
13 Sales did not have visibility to
14 thresholds.
15 BY MR. KENNEDY:
16 Q. Let me ask you this. When
17 they would call McKesson after seeing
18 they were close to their threshold, they
19 would be asked whether they wanted to
20 increase their threshold, right?
21 MS. HENN: Objection to
22 form.
23 THE WITNESS: That I'm not
24 aware, sir. Usually if a customer

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1 called in, the customer would
2 request the review.
3 BY MR. KENNEDY:
4 Q. Sir, if they don't ask, they
5 are told that they can increase their
6 threshold, were they not?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: I'm not aware
10 of sales saying that they can
11 increase it, no, sir.
12 BY MR. KENNEDY:
13 Q. Sir, when -- if a customer
14 were to call on the telephone who was
15 getting close to their threshold and if
16 they were to request a threshold
17 increase, right over the telephone, in
18 five minutes, that McKesson employee
19 could ask him a few questions and fill
20 out, in five minutes, a one-page
21 threshold change request, correct?
22 A. They --
23 Q. They could do it in five
24 minutes?

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1 A. They could -- it may take
2 five minutes, yes, sir.
3 Q. And, sir, in fact, these
4 thresholds, which are the foundation of
5 your entire program to control the flow,
6 if somebody asked for a threshold
7 increase, it was such a sure thing that
8 the customer would -- would be told, the
9 customer would be told, if you don't hear
10 back from us, consider the threshold
11 increase approved, right, right over the
12 phone they would be told that?
13 MS. HENN: Objection to
14 form.
15 THE WITNESS: I'm not aware
16 of that statement, sir.
17 MR. KENNEDY: If you can
18 give us 5011 please.
19 BY MR. KENNEDY:
20 Q. Are you surprised at that
21 statement?
22 MS. HENN: Objection to
23 form.
24 THE WITNESS: I am.

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1 MS. ROZMAN: Which is MCK
2 Oriente 541.
3 (Document marked for
4 identification as Exhibit
5 MCK-Oriente-541.)
6 BY MR. KENNEDY:
7 Q. Sir, this is titled
8 "Controlled Substances Substance
9 Monitoring Program," CSMP, correct?
10 A. Yes.
11 Q. Second paragraph, it states,
12 "McKesson's technology monitors their
13 purchases and alerts customers when they
14 near their threshold." Do you see that,
15 sir?
16 A. Yes.
17 Q. They are getting alerted,
18 right?
19 A. Yes. There's a warning
20 printed on the invoice.
21 Q. Now, you told us these
22 thresholds are critical, right? They are
23 critical, correct?
24 A. Yes.

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1 Q. Sir, this -- look to the
2 next page. This is the audience who
3 this -- this is directed towards. Do you
4 see the audience says, "First service
5 representatives, including specialty and
6 support."
7 Can you tell us who first
8 service -- or ServiceFirst
9 representatives, who are those folks at
10 McKesson?
11 A. ServiceFirst representatives
12 are customer service down in the Texas
13 office.
14 Q. And these folks, they are
15 sales assistants, right?
16 A. They are customer serve
17 reps, I don't know if they are sales
18 assistants. They handled customer
19 inquiries when they were called in.
20 Q. They handled threshold
21 increases, did they not?
22 A. They would -- they didn't --
23 well, when you say handle them, they
24 would take the information, send it to

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1 the -- in each distribution center there
2 is a sales administrator who would then
3 submit the TCR to the McKesson regulatory
4 person for review.
5 Q. Right. They filled out the
6 threshold change request over the
7 telephone in five minutes, a customer
8 assistance rep, right?
9 MS. HENN: Objection to
10 form.
11 BY MR. KENNEDY:
12 Q. Is that right, sir?
13 A. I'm not familiar with the
14 customer ServiceFirst representative
15 filling them out. The ones that -- that
16 I would review would come through the
17 sales administrator at the distribution
18 center and fill out what we called a TCR
19 form, or a threshold request form.
20 Q. Well, we're going to talk
21 about -- a threshold change request,
22 right?
23 A. Yes.
24 Q. And they filled that out

<p style="text-align: right;">Page 382</p> <p>1 over the phone, correct?</p> <p>2 MS. HENN: Objection to</p> <p>3 form.</p> <p>4 THE WITNESS: When you say</p> <p>5 they filled that out over the</p> <p>6 phone, they would get the</p> <p>7 information from the customer</p> <p>8 and --</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. And fill out the form over</p> <p>11 the telephone?</p> <p>12 A. -- fill it out -- yes. And</p> <p>13 then would submit it to regulatory for</p> <p>14 review.</p> <p>15 Q. Excellent. Now look at .3.</p> <p>16 This is what is being told to the people</p> <p>17 who are answering the phone and receiving</p> <p>18 requests from pharmacies.</p> <p>19 This is the script they are</p> <p>20 given. Look at .3. Do you see this,</p> <p>21 sir, on .3?</p> <p>22 A. I'm looking for .3.</p> <p>23 Q. Up in the right-hand corner.</p> <p>24 A. Oh, okay, third page.</p>	<p style="text-align: right;">Page 384</p> <p>1 Q. Sir, you say you wouldn't</p> <p>2 see this?</p> <p>3 A. Yeah.</p> <p>4 Q. You are the one in charge of</p> <p>5 attempting to regulate the flow of</p> <p>6 narcotics to pharmacies. And the way</p> <p>7 you're doing it is putting into place a</p> <p>8 threshold system, correct? That's how</p> <p>9 you were doing it.</p> <p>10 A. Correct. And I would watch</p> <p>11 that threshold process. But as far as</p> <p>12 the communication of a customer hearing</p> <p>13 back that it was approved or not? I did</p> <p>14 not get involved.</p> <p>15 MR. KENNEDY: Can you give</p> <p>16 me the Elmo again please, sir.</p> <p>17 BY MR. KENNEDY:</p> <p>18 Q. You told us earlier, and so</p> <p>19 did the president of your company, that</p> <p>20 "McKesson took our responsibility very</p> <p>21 seriously." And this threshold system</p> <p>22 was taken so seriously that if somebody</p> <p>23 wanted to increase their threshold, they</p> <p>24 were told just to assume. It's so easy,</p>
<p style="text-align: right;">Page 383</p> <p>1 Q. This is what they're --</p> <p>2 they're instructed to tell a pharmacy who</p> <p>3 wants to increase this all-important</p> <p>4 threshold.</p> <p>5 "Tell caller that you will</p> <p>6 forward the request and that someone from</p> <p>7 McKesson distributor center will call if</p> <p>8 the request is denied. Otherwise, the</p> <p>9 caller can consider the request</p> <p>10 approved."</p> <p>11 That's what they are</p> <p>12 instructed to tell pharmacies. You are</p> <p>13 surprised by that, aren't you?</p> <p>14 A. Well, since this is a --</p> <p>15 Q. My question is real simple.</p> <p>16 Surprised by that?</p> <p>17 MS. HENN: And the witness</p> <p>18 should answer the question as he</p> <p>19 deems fit.</p> <p>20 THE WITNESS: Since this is</p> <p>21 a customer care document and not a</p> <p>22 regulatory document that I would</p> <p>23 have seen, I am surprised at that.</p> <p>24 BY MR. KENNEDY:</p>	<p style="text-align: right;">Page 385</p> <p>1 just assume that it's been approved.</p> <p>2 Correct? Is that what they were told?</p> <p>3 A. Not -- not to assume, no.</p> <p>4 Consider the request approved if you</p> <p>5 don't hear that it's denied.</p> <p>6 Q. Thank you. But that wasn't</p> <p>7 all, sir, that wasn't all you were doing</p> <p>8 with respect to these thresholds. You</p> <p>9 were actually proactive about it. If the</p> <p>10 customer got near their threshold and</p> <p>11 they didn't call McKesson, if they didn't</p> <p>12 call McKesson to say increase my</p> <p>13 threshold, you folks actually put into</p> <p>14 place a system where you would call the</p> <p>15 customer and say, "Do you want to</p> <p>16 increase your threshold?" Are you aware</p> <p>17 of that program, sir?</p> <p>18 MS. HENN: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: I am -- I am</p> <p>21 not.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. You were the head of</p> <p>24 regulatory, weren't you?</p>

<p style="text-align: right;">Page 386</p> <p>1 A. Yes, sir.</p> <p>2 MR. KENNEDY: Give me 5012</p> <p>3 please.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. This -- this document is</p> <p>6 titled "ISMC Controlled Substance</p> <p>7 Monitoring Program, CSMP Outbound Calls."</p> <p>8 Those are calls McKesson is making,</p> <p>9 outbound, correct? Is that what outbound</p> <p>10 means?</p> <p>11 A. Yes.</p> <p>12 Q. First sentence, first</p> <p>13 service assists -- and I suggested to you</p> <p>14 before that first service sales. Does</p> <p>15 this say first service -- "ServiceFirst</p> <p>16 assists RSMs." Is that what it says?</p> <p>17 A. That is what it says.</p> <p>18 Q. And what does RSM stand for?</p> <p>19 A. Retail sales manager.</p> <p>20 Q. "ServiceFirst assists retail</p> <p>21 sales managers housed out of the</p> <p>22 following distribution centers by</p> <p>23 generating outbound calls."</p> <p>24 So they are making the calls</p>	<p style="text-align: right;">Page 388</p> <p>1 Q. And they are assisting the</p> <p>2 sales folks, correct?</p> <p>3 A. Yes. That's -- again, this</p> <p>4 document I would not have seen because</p> <p>5 the audience was the customer care</p> <p>6 section. It was not regulatory. And</p> <p>7 with these six DCs not being my DCs, I</p> <p>8 was unaware that that's how these six DCs</p> <p>9 were handling this.</p> <p>10 Q. Let me ask you, sir.</p> <p>11 McKesson, McKesson is sitting here in the</p> <p>12 United States of America at this point in</p> <p>13 time, and there's an opioid crisis, there</p> <p>14 is diversion that is feeding this crisis.</p> <p>15 And are you telling me that -- that with</p> <p>16 respect to your monitoring obligations,</p> <p>17 you've got this regulatory department</p> <p>18 going on and at the same time you have</p> <p>19 sales in the middle of it and you don't</p> <p>20 even know about it, you don't even know</p> <p>21 about this program?</p> <p>22 MS. HENN: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: My</p>
<p style="text-align: right;">Page 387</p> <p>1 to independent customers nearing their</p> <p>2 CSMP thresholds. So these folks are</p> <p>3 being told, these assistants to the sales</p> <p>4 folks are being told, you call pharmacies</p> <p>5 if they get close to their thresholds.</p> <p>6 Is that what it's saying, sir?</p> <p>7 A. So these distribution</p> <p>8 centers, these six of them, were not in</p> <p>9 my region, so I had no responsibilities</p> <p>10 for these six DCs.</p> <p>11 Q. That's fine. I'm talking</p> <p>12 about a national program, sir. All</p> <p>13 right. I'm talking about a national</p> <p>14 program.</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Let me ask you this.</p> <p>17 Let's go down here.</p> <p>18 "Audience. This monitoring</p> <p>19 program, the audience is designated ISMC</p> <p>20 ServiceFirst representatives."</p> <p>21 What is ISMC? That is</p> <p>22 independent/small/medium-size customers,</p> <p>23 right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 389</p> <p>1 responsibility was six DCs in the</p> <p>2 Northeast, sir. And I knew my</p> <p>3 program. This was in the North</p> <p>4 Central region handled by another</p> <p>5 regulatory director.</p> <p>6 So if they were making these</p> <p>7 outbound calls, sir, I was not</p> <p>8 aware.</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. So you are trying to control</p> <p>11 the flow of opioids into this country,</p> <p>12 and sales is trying to increase the</p> <p>13 opioids going in. And you have no idea</p> <p>14 that they are involved in your program?</p> <p>15 MS. HENN: Objection to</p> <p>16 form.</p> <p>17 THE WITNESS: The request</p> <p>18 from sales to review a threshold</p> <p>19 does not automatically mean that</p> <p>20 the threshold would have been</p> <p>21 increased.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Sir, I'm just talking about</p> <p>24 now your sales folks making phone calls</p>

<p style="text-align: right;">Page 390</p> <p>1 to customers who are near their 2 thresholds to ask them if they want to 3 increase their threshold. And you don't 4 know about it, right? 5 MS. HENN: Objection to 6 form. 7 BY MR. KENNEDY: 8 Q. Do you know about that going 9 on? 10 MS. HENN: Same objection. 11 THE WITNESS: I don't -- I 12 did not know that in the North 13 Central, these six distribution 14 center customers were getting 15 calls. 16 BY MR. KENNEDY: 17 Q. Sir, look at this. You told 18 us before that the sales folks never -- 19 they would never see the daily reports on 20 thresholds. Look at Page 2, .2. 21 Yeah, this is Exhibit 542. 22 Look at that second page 23 of -- of this protocol. Does it state -- 24 and this is under policy. Does it state,</p>	<p style="text-align: right;">Page 392</p> <p>1 they look at this report, when they look 2 at this report, first thing they are 3 supposed to do is verify if the customer 4 has already been contacted this month 5 regarding their threshold. So look at 6 that first. They are saying to these -- 7 these sales assistant. First look and 8 see if they've already been contacted. 9 Correct? 10 A. Correct. 11 Q. It says here that if the 12 customer has reached 96 percent of their 13 threshold, if yes, call the customer 14 again. Right? Is that right? 15 A. That's what it states here, 16 yes. 17 Q. So a customer might get two 18 phone calls in one month from your sales 19 assistant, right? 20 A. In this region, yes. Not in 21 mine. 22 Q. Number 8, "Call the 23 customer, referring the point of contact 24 provided on the contact spreadsheet," see</p>
<p style="text-align: right;">Page 391</p> <p>1 "Designated ISMC," so that's 2 independent/small/medium pharmacies, 3 "SFRs," ServiceFirst reps who are -- who 4 are assisting sales, "they will review 5 Department of Regulatory Affairs, DRA, 6 daily reports." 7 You just said the sales 8 folks didn't see the regulatory reports. 9 This is saying something different, 10 correct? 11 A. I said the customers don't 12 see their reports. 13 Q. "And proactively," next 14 sentence. "And proactively contact." So 15 we want you folks to be proactive. We 16 want you to call the customer who reached 17 90 percent of their threshold. "ISMC SFR 18 assistant sales will document the 19 customer's response and e-mail requests 20 for increases of thresholds." Do you see 21 that? 22 Do you see that, sir? 23 A. Yes. 24 Q. Go down to Number 6. When</p>	<p style="text-align: right;">Page 393</p> <p>1 that? 2 A. Yes. 3 Q. Number 9. This is the ninth 4 step of the instruction to these sales 5 assistants. 6 "Advise pharmacy that they 7 are nearing their CSMP threshold." 8 Right? And -- right? 9 A. Yes, that's what Number 9 10 says. 11 Q. It says tell them what 12 percentage they are at, correct? 13 Does it say that, provide 14 percentage? 15 A. It does. 16 Q. So if I'm a customer and I 17 know I've -- I've purchased 9,000 18 oxycodones and the sales assistant says, 19 you know, Mr. Kennedy, Mr. Pharmacist, 20 you're at 90 percent of your threshold, 21 it's pretty easy for me now to know my 22 threshold, right? Is that right, sir? 23 A. The customer may be able to 24 back into that number, yes.</p>

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1 Q. Pretty easy math, isn't it?
2 A. They -- they could do the
3 math to determine it. They --
4 Q. Didn't you tell us earlier
5 that you never told the customer their
6 threshold because you don't want to do
7 that, because then they are going to be
8 able to play underneath their threshold
9 and they are going to be able to divert
10 opioids and narcotics into the community.
11 Isn't that what you told us earlier, sir?
12 MS. HENN: Objection to
13 form.
14 THE WITNESS: That's --
15 BY MR. KENNEDY:
16 Q. Didn't you tell us that?
17 A. That's what I said for the
18 area that I was responsible for which is
19 not any of these six DCs receiving these
20 phone calls, sir.
21 Q. The national program that --
22 that McKesson was implementing, right?
23 A. I -- I said it was regional
24 in my area of the Northeast. My six DCs

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1 did not do this and that's why I said it
2 was regional.
3 Q. Let's go down to Number 12.
4 Number 12, this is the 12th step for the
5 sales assistant. After they've made one
6 or two calls does it say there, if the
7 customer doesn't want to increase their
8 threshold, does it say, "Advise the
9 customer to contact ServiceFirst if
10 threshold needs change. Provide your
11 direct phone number." Is that what it
12 says?
13 A. That is what it says.
14 Q. Sir, what we've got here,
15 we've got a system. Again, you told us
16 you were taking this very seriously.
17 You've got a system whereby, number one,
18 let's say a pharmacy is getting low on
19 OxyContin, oxycodone, dangerous drug,
20 right?
21 A. Strong painkiller.
22 Q. In the middle of the
23 epidemic, right?
24 A. That is correct.

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1 Q. So this program of
2 thresholds that you folks are taking so
3 serious on any given month, if -- if
4 Mr. Pharmacist is getting close to that
5 threshold that's going to trigger an
6 investigation, if he gets close, number
7 one, you are going to notify him on his
8 bill, correct?
9 A. That is correct.
10 Q. And by these programs,
11 number two, sir, if he calls he's going
12 to be told he can increase his threshold.
13 And number three, if he doesn't call, you
14 are going to call him once or twice,
15 correct?
16 MS. HENN: Objection.
17 BY MR. KENNEDY:
18 Q. Correct, under this program,
19 correct?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: This program
23 would start the review, yes. It
24 doesn't mean that the review would

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1 actually get approved.
2 BY MR. KENNEDY:
3 Q. And you're -- and you're
4 going to then ask him, do we -- do I want
5 to increase -- do you want to increase
6 your thresholds in one of these two
7 calls, and then if he says no, you're
8 going to say hey, here is a direct dial
9 number. If you want to increase your
10 threshold, call us back.
11 Isn't that what this program
12 says, that is what was going on?
13 A. This -- this program says
14 that the service rep would get the call
15 back, yes.
16 Q. And, sir, and if the
17 customer says to you, you know what, I do
18 want to increase my threshold. He's told
19 you know what, consider your threshold
20 raised unless we get back to you.
21 And this was you folks at
22 McKesson, according to you, and the CEO
23 in his testimony to Congress, this was
24 you folks taking your responsibilities

<p style="text-align: right;">Page 398</p> <p>1 very seriously since 2008, right?</p> <p>2 MS. HENN: Objection to</p> <p>3 form.</p> <p>4 BY MR. KENNEDY:</p> <p>5 Q. Is that right?</p> <p>6 A. As I stated, this was not a</p> <p>7 practice in my area of responsibility.</p> <p>8 Q. You know what, these</p> <p>9 thresholds that we are talking about</p> <p>10 here, if we can go back a second, to 5009</p> <p>11 I think.</p> <p>12 MS. HENN: And, Counsel, the</p> <p>13 deposition protocol requires</p> <p>14 demonstratives to be entered as</p> <p>15 exhibits, just to make sure we</p> <p>16 take back --</p> <p>17 MR. KENNEDY: 5009 is</p> <p>18 Exhibit 539.</p> <p>19 MS. ROZMAN: This is that</p> <p>20 one.</p> <p>21 MS. HENN: I'm talking about</p> <p>22 the Elmo demonstratives.</p> <p>23 MS. ROZMAN: Oh, I'm sorry.</p> <p>24 MS. HENN: Those need to be</p>	<p style="text-align: right;">Page 400</p> <p>1 use it to make informed decisions based</p> <p>2 upon established threshold information,</p> <p>3 that's what you were going to use it for?</p> <p>4 A. Correct.</p> <p>5 Q. And if you were going to</p> <p>6 change them, if you were going to change</p> <p>7 it, it was required that you document it,</p> <p>8 right?</p> <p>9 A. We did a -- what was called</p> <p>10 a threshold change review by regulatory</p> <p>11 to see if the threshold should be</p> <p>12 increased.</p> <p>13 Q. Let's take a look at some</p> <p>14 change. Let's look at that process that</p> <p>15 you were talking about. If we'll --</p> <p>16 we'll mark that exhibit.</p> <p>17 MR. KENNEDY: Keep the Elmo</p> <p>18 up for a second. If we can go back.</p> <p>19 BY MR. KENNEDY:</p> <p>20 Q. I wrote this down, because</p> <p>21 this is what you told me earlier.</p> <p>22 If you were going to</p> <p>23 increase a threshold you needed to report</p> <p>24 the reason, correct?</p>
<p style="text-align: right;">Page 399</p> <p>1 labeled as exhibits at some point.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. I want to go back a second</p> <p>4 here, because we -- we just need to be</p> <p>5 reminded of this as we go forward.</p> <p>6 This -- this threshold</p> <p>7 system we are going to continue to talk</p> <p>8 about. It was a critical compart -- part</p> <p>9 of your program to monitor the flow of</p> <p>10 narcotics into the community, correct,</p> <p>11 critical, correct?</p> <p>12 A. I would say yes, it was.</p> <p>13 Q. And you took great care in</p> <p>14 setting it, right?</p> <p>15 A. I did, yes.</p> <p>16 Q. And it had to be unique for</p> <p>17 your customers, each one of them was</p> <p>18 going to get a specific threshold because</p> <p>19 the customers were different, correct?</p> <p>20 A. It was based off of their</p> <p>21 historical data unless the full</p> <p>22 thresholds were used when setting up new</p> <p>23 customers.</p> <p>24 Q. And McKesson was going to</p>	<p style="text-align: right;">Page 401</p> <p>1 A. Right, sir.</p> <p>2 Q. And you are looking for a</p> <p>3 business change, some kind of business</p> <p>4 change at the pharmacy to document and</p> <p>5 explain and justify the increase, right?</p> <p>6 A. Yes.</p> <p>7 Q. And we talked about you've</p> <p>8 got a competitor that's closed down,</p> <p>9 you've got a new group of doctors, right?</p> <p>10 A. Mm-hmm. Right.</p> <p>11 Q. All right. Threshold change</p> <p>12 request, that was the standard form</p> <p>13 utilized by McKesson to initiate a</p> <p>14 change, true?</p> <p>15 A. Yes.</p> <p>16 Q. Standard form used across</p> <p>17 the country, right?</p> <p>18 A. I believe it was standard.</p> <p>19 Yes.</p> <p>20 Q. And we're trying to get an</p> <p>21 understanding of why no suspicious orders</p> <p>22 were reported earlier, right? Some --</p> <p>23 understand that's why we're doing this.</p> <p>24 So let's look at a threshold change</p>

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1 request.
 2 MR. KENNEDY: If you can
 3 give me 5016, please.
 4 MS. ROZMAN: MCK Oriente
 5 546.
 6 (Document marked for
 7 identification as Exhibit
 8 MCK-Oriente-546.)
 9 BY MR. KENNEDY:
 10 Q. This is a standard form
 11 threshold change request at McKesson.
 12 True?
 13 A. This is the form that was
 14 used in 2008, yes.
 15 Q. Across the country?
 16 A. In 2008, yes.
 17 Q. Up in that left hand it
 18 gives us the date that this was filled
 19 out, right, 11/28/08?
 20 A. Mm-hmm.
 21 Q. Customer name. That's going
 22 to be the name of the customer that wants
 23 the change, true?
 24 A. Yes.

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1 Q. Various RNA customers it
 2 says. This -- this threshold is being
 3 requested, the change, by various RNA
 4 customers, see attachment. And I suppose
 5 there's an attachment and there's a list
 6 of all the customers that this would
 7 apply to, correct?
 8 A. According to this it says
 9 that there is an attachment, yes. That
 10 attachment isn't here.
 11 Q. And RNA would be retail
 12 national accounts, true?
 13 A. That is correct.
 14 Q. That's the big accounts,
 15 those are the big national chains, right?
 16 A. Those are the chain stores,
 17 yes.
 18 Q. That's the CVS, that's the
 19 Walmart, that's the Walgreens, correct?
 20 A. Yes.
 21 Q. And down here then with
 22 respect to what narcotic or what
 23 controlled substances you're asking the
 24 increase for, it says, "Various." True?

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1 A. On here it says various,
 2 yes.
 3 Q. It says, "Increase amount
 4 30 percent." True?
 5 A. Yes.
 6 Q. So you're asking for a
 7 30 percent increase on various different
 8 controlled substances for various
 9 different customers. True?
 10 MS. HENN: Objection to
 11 form.
 12 BY MR. KENNEDY:
 13 Q. Is that true? Is that what
 14 it says?
 15 A. This document says that,
 16 yes.
 17 Q. "Reason for change,
 18 parentheses, attach supporting
 19 documentation." Do you see that, sir?
 20 A. Yes.
 21 Q. What's the stated reason by
 22 McKesson for this change?
 23 A. The -- this says, "Increase
 24 due to the Thanksgiving holiday."

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1 Q. Thanksgiving?
 2 A. That's what it says here,
 3 because of the DCs being closed.
 4 Q. That's -- is that what it
 5 says, Thanksgiving?
 6 A. Says Thanksgiving holiday.
 7 Q. 30 percent increase. Is
 8 that what it says?
 9 A. That's what this document
 10 says, yes. This was not one of mine.
 11 Q. Want to go back to that --
 12 if we can go back to the Elmo for a
 13 second here. I just want to put this all
 14 in context, about what you've been
 15 telling us here today.
 16 A. Mm-hmm.
 17 Q. When we make an increase in
 18 the threshold, we report the reason, and
 19 we're looking for a business change. Is
 20 that what you told me?
 21 Is that what you told me?
 22 A. A change -- a change in
 23 business would be one of the reasons that
 24 we would look for. So in this case, with

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1 the increase due to the Thanksgiving
2 holiday, that either distribution centers
3 are closed today so customers can't get
4 their -- their product, they may need to
5 order earlier in the month, things of
6 that nature.
7 This was not one of my
8 requests, so I cannot say exactly what
9 was reviewed and such. It was done by
10 another director.
11 Q. Sir, whoa, one second here.
12 Doesn't this say, that -- that
13 justification, thanks. Doesn't this say
14 permanent or temporary threshold change?
15 Is that what it says?
16 A. This one says perm
17 underlying, yes.
18 Q. You -- you're talking about
19 a permanent 30 percent change for
20 Thanksgiving. Is that what it says?
21 A. This document does say that.
22 I cannot say why it was written up. I --
23 I don't know because this is not one of
24 mine.

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1 Q. That was approved the same
2 day the request was -- was being made,
3 right?
4 MS. HENN: Objection to
5 form.
6 BY MR. KENNEDY:
7 Q. Right?
8 A. This -- this looks like it
9 was approved by another regulatory
10 director. I don't know what decisions
11 were made to approve this.
12 Q. Well, that's Dave Gustin,
13 that DG, right?
14 A. I believe it is, yes.
15 Q. You know him, right?
16 A. I worked with Dave, yes.
17 Q. He is a good guy?
18 A. That's a commentary, sir. I
19 mean Dave was --
20 Q. Well, do you like him, a
21 competent guy, he did a good job for
22 McKesson?
23 MS. HENN: Objection to
24 form.

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1 THE WITNESS: I believe he
2 did, sir.
3 BY MR. KENNEDY:
4 Q. And he's -- he's going to
5 follow the rules in the approach that
6 McKesson is taking with respect to these
7 things, isn't he?
8 A. He would in his
9 interpretation of the program, sir.
10 Q. Let me ask you this.
11 When -- when this program got put into
12 place in the beginning, when you folks
13 made the commitment to the DEA and the
14 department of justice in the settlement
15 agreement after paying \$13 million and
16 you said we're going to put a program in
17 place, and we're going to foundation this
18 program on thresholds, did you tell them
19 that you would be making 30 percent
20 increases for various different
21 pharmacies because of Thanksgiving and
22 that they would be permanent? Did you
23 represent that to the DEA, the DOJ, when
24 you agreed to put in a threshold system?

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1 MS. HENN: Objection to
2 form.
3 BY MR. KENNEDY:
4 Q. Did you tell them that?
5 A. Sir, you are asking me what
6 was said to the DEA and I was not there,
7 so I cannot comment on what was said to
8 the DEA.
9 Q. And, sir, I said before,
10 when I asked you about your system, I
11 thought it was really important that we
12 look at all of the decisions that being
13 made by McKesson, I thought it was
14 important that we look at these decisions
15 within the framework of what is going on
16 in America. And while you folks are
17 making the decision to increase the sales
18 of controlled substances to various
19 pharmacies on a permanent basis for
20 Thanksgiving, at this point in time,
21 controlled substances are killing more
22 people in this country, sir, at that
23 point in time than coke and heroin
24 combined. Isn't that the fact?

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1 MS. HENN: Objection to
2 form.
3 BY MR. KENNEDY:
4 Q. True? This is '08.
5 MS. HENN: Same objection.
6 BY MR. KENNEDY:
7 Q. Isn't that true, sir?
8 A. That's what the other
9 document had in it, yes, sir.
10 Q. Let's continue on. Let's
11 how serious we are all taking this,
12 what's going on.
13 MS. HENN: Counsel, it's
14 been about an hour since you got
15 started. So I'd ask if it's an
16 okay time to take a ten-minute
17 break?
18 MR. KENNEDY: Sure.
19 THE VIDEOGRAPHER: Stand by
20 please. The time is 2:57 p.m. Off
21 the record.
22 (Short break.)
23 THE VIDEOGRAPHER: We are
24 back on the record. The time is

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1 3:12 p.m.
2 MR. KENNEDY: We all set?
3 THE VIDEOGRAPHER: All set.
4 BY MR. KENNEDY:
5 Q. All right, Mr. Oriente, I
6 want to continue to talk about threshold
7 change requests.
8 Let me show you 5014.
9 MS. ROZMAN: Which is MCK
10 Oriente 544.
11 (Document marked for
12 identification as Exhibit
13 MCK-Oriente-544.)
14 BY MR. KENNEDY:
15 Q. This is another threshold
16 change request, threshold change form,
17 correct?
18 A. Yes.
19 Q. All right. And you can see
20 that attached to this threshold change
21 request are two pages of e-mails. True?
22 MS. HENN: And, Counsel, I
23 just want to point out there is
24 red handwriting with the words

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1 "not truthful" pointing to words.
2 MR. KENNEDY: Yeah.
3 Correct. And there's a numbering
4 system.
5 BY MR. KENNEDY:
6 Q. All the red handwriting is
7 mine, all right?
8 And if -- if this --
9 attached to this threshold change
10 request, I'm going to start by talking
11 about the e-mails leading up to that
12 threshold change request. All right.
13 And I put numbers on these,
14 one, two, three, four, five. And that's
15 so we can follow it through
16 chronologically. All right.
17 So if you'll go to Page .4.
18 MS. HENN: And you can take
19 your time reading the whole
20 document if you need to.
21 THE WITNESS: Okay.
22 BY MR. KENNEDY:
23 Q. We're going to read the
24 entire document, sir. All right. You

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1 all set?
2 A. Almost. Okay. Thank you.
3 Q. All right. E-mail Number 1.
4 Let's start with the first e-mail that's
5 written. Number 1. Do you see that on
6 Page .4?
7 A. Yes, sir.
8 Q. Now, down at the bottom, on
9 .4, we have an e-mail from Dave Gustin,
10 correct?
11 A. Yes. He's the --
12 Q. And he is -- he is a
13 director of regulatory affairs just like
14 you, true?
15 A. Yes. He handled the
16 Northeast region.
17 Q. And you are in the Northeast
18 region?
19 A. I'm sorry, I misspoke. He
20 was in the North Central. Thank you.
21 Q. All right. North Central?
22 A. Yeah. Thank you.
23 Q. He sends an e-mail on
24 May 28, '08. Correct?

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1 A. Yes.
2 Q. And he sends it to you,
3 correct?
4 A. Yes. Michael, Blaine and
5 Rex and Joel.
6 Q. He sends it to Snider,
7 correct?
8 A. Yes.
9 Q. Who is Snider?
10 A. Blaine Snider is the DC
11 manager at the New Castle distribution
12 center.
13 Q. And he says it to Catton,
14 correct?
15 A. Rex Catton.
16 Q. Catton. And he's in sales,
17 true?
18 A. Yes, he was vice president
19 of sales.
20 Q. And the subject on this is
21 New Castle CSMP report. New Castle is in
22 your region, true?
23 A. Yes.
24 Q. And New Castle is what

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1 services Cayahouga County, Cleveland,
2 Ohio, Summit County, Akron, Ohio, true?
3 A. They handle all the -- this
4 one regarded Giant -- Giant Eagle. So
5 they would handle all the Giant Eagle
6 stores.
7 Q. In that area that I just
8 mentioned, that geographic area?
9 A. I believe so, yes.
10 Q. All right. So the answer to
11 my question is yes, right?
12 A. Yes.
13 Q. And the subject then is New
14 Castle CSMP. So that's controlled
15 substance monitoring report. 75 percent
16 plus with a date 5/28/08. Is that the
17 subject?
18 A. Yes.
19 Q. And so --
20 MS. HENN: Counsel, just a
21 note. It looks like this is a
22 reply to a prior e-mail. Do we
23 not have that e-mail?
24 MR. KENNEDY: We do not

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1 have. You folks didn't produce
2 it.
3 MS. HENN: Okay.
4 BY MR. KENNEDY:
5 Q. So the subject then is a
6 75 percent report as of 5/28/08. And
7 that -- that would be a report that is
8 identifying all of your customers who
9 have purchased at least 75 percent of
10 their threshold as of that day in the
11 month. True?
12 A. Yes, sir.
13 Q. And Dave Gustin is saying to
14 Rex who is in sales, "Rex, I await your
15 input." So now we've got a -- we've got
16 a regulatory director asking Rex in sales
17 for his input, correct? That's the first
18 sentence?
19 A. Yeah. Dave is asking Rex
20 for comment.
21 Q. Is that the -- that's
22 correct, he's asking sales for some
23 input, true?
24 A. He's asking Rex for input.

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1 Yes.
2 Q. The second sentence is, "I
3 can bump it if you agree to a small
4 bump."
5 And he's asking, and he's
6 talking about bumping up the threshold.
7 True?
8 A. That is what Dave is
9 referring to, yes.
10 Q. So now we've got a director
11 of regulatory affairs is asking sales for
12 their input about an increase of a
13 threshold. True?
14 A. He's asking Rex for his
15 opinion on bumping the threshold, yes.
16 Q. He says, "I know RNA,"
17 regional or retail national accounts,
18 "should make the contact initially, but
19 it looks like the customer called the
20 description center so let me know."
21 Right? Is that the e-mail?
22 A. Yes, sir. That's what it
23 says.
24 Q. Okay. So we've got a

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1 regulatory affairs director asking sales
 2 for their input on an increase in the
 3 threshold. And then next, if we go up to
 4 e-mail Number 2, about an hour later.
 5 Rex Catton, Catton, he e-mails back to
 6 Gustin, he e-mails you, and Snider, the
 7 same folks, right, and we -- we've got
 8 the same subject line, New Castle CSMP
 9 report 75 percent, 5/28/08, correct?
 10 A. Yes.
 11 Q. And sales is saying, "Yes.
 12 Please bump it up." So increase the
 13 threshold. "There were other stores in
 14 the list that was sent yesterday. We
 15 spoke to Greg Carlson yesterday, and he
 16 asked us to increase those above
 17 80 percent."
 18 First of all, who is -- who
 19 is Greg Carlson?
 20 A. I don't know who Greg
 21 Carlson is.
 22 Q. Anyway, Greg Carlson,
 23 somebody at McKesson, he is asking that
 24 you bump up everybody on this list,

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1 increase the threshold for everybody on
 2 the list that has already purchased
 3 80 percent or more of their threshold.
 4 Isn't that what he's asking? Isn't that
 5 what he's asking, sir?
 6 A. He's ask -- what I'm reading
 7 here is he's asking for customers who are
 8 at 80 percent to be given an increase so
 9 they don't hit their threshold.
 10 Q. That's what he's asking,
 11 right? Is that what he's asking?
 12 A. I just said I believe he is
 13 asking for an increase so that the
 14 customers won't get the omits and not be
 15 able to order product.
 16 Q. Across the board, let's
 17 increase everybody that's already got to
 18 08 percent, that's what he's asking?
 19 A. Right. We don't know from
 20 this e-mail how many they are talking
 21 about. It could be a couple or more.
 22 Q. Well, we'll go to the next
 23 e-mail. We're going to find out.
 24 So Dave Gustin, the director

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1 of regulatory, an hour later.
 2 A. Mm-hmm.
 3 Q. He sends an e-mail back to
 4 sales, and to you and to other folks, and
 5 he says, "The list, by the way, is a long
 6 one."
 7 That's the lists of all the
 8 folks, all the pharmacies, all the
 9 customers he wants to get a bump in their
 10 threshold. He says, "The list, by the
 11 way, is a long one."
 12 "I need a reason to go in
 13 and bump all those stores thresholds."
 14 Is that what he said?
 15 A. That's what's written here.
 16 Q. And let me ask you, sir.
 17 Mr. Gustin, he is right, isn't he? When
 18 he says, I need a reason to bump up the
 19 thresholds of a long list of pharmacies,
 20 he's right when he says that, isn't he?
 21 Isn't he?
 22 A. Yes. Yes, he would need a
 23 reason. What's the reason for the
 24 increase.

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1 Q. That's the way things are
 2 supposed to be done at McKesson, right?
 3 A. That's part of the procedure
 4 to understand why the thresholds are
 5 being made.
 6 Q. That's the right way to do
 7 it, isn't it, sir? Isn't that the right
 8 way to do it, exactly what he's
 9 suggesting there. That's the right way
 10 to do it.
 11 A. It's -- it's part of the
 12 process to review a threshold, the
 13 reason.
 14 Q. He goes on and next he says,
 15 "They," they meaning everybody on this
 16 list, all these pharmacies, "They are all
 17 purchasing at well past their historic
 18 trends or they would not be on the
 19 report."
 20 He next says, "The question
 21 is why, and until it is answered, the
 22 response should not just be going in and
 23 changing their thresholds to keeping them
 24 off the report."

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1 And when he says, "The
2 question is why, and until we answer it,"
3 we can't just go in and bump up a whole
4 long list of thresholds. When he says
5 that, he was right, wasn't he?
6 A. Yes. We wouldn't want to
7 just make changes for the sake of making
8 changes.
9 Q. He's right, isn't he?
10 A. Yes.
11 Q. And you agreed with him at
12 that point?
13 A. Well, I don't know if I
14 agreed with him at that point. I'm
15 agreeing with what I'm reading here.
16 This is a ten-year-old e-mail.
17 Q. And, sir, I'll tell you
18 what. Mr. Gustin was right. And you
19 agree he was right. But guess what?
20 That entire long list of pharmacies all
21 got their bump, every single one of them,
22 despite no reason. They all got an
23 increase in their thresholds, sir. You
24 know that?

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1 MS. HENN: Objection to
2 form.
3 BY MR. KENNEDY:
4 Q. You were on this e-mail,
5 sir.
6 A. Excuse me?
7 Q. You were on this e-mail.
8 A. Right, I was on the e-mail.
9 I don't know if I was in the office or on
10 vacation or what, on May 28th of 2008.
11 I'd have to see.
12 Yes, I got the e-mail.
13 Again, if this account -- I was on the
14 e-mail because I had the New Castle
15 distribution center.
16 Q. Yep.
17 A. Dave Gustin may have had the
18 customer we're referring to on here which
19 I believe was Giant Eagle. So Dave would
20 have made the increases based off of the
21 customer.
22 Q. I tell you what. You
23 increased a long list of pharmacies with
24 no reason. That is absolutely contrary

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1 to what you represented to the DEA as to
2 what you were going to do pursuant to the
3 2008 settlement.
4 MS. HENN: Objection to
5 form.
6 BY MR. KENNEDY:
7 Q. Is that right?
8 MS. HENN: Objection to
9 form.
10 THE WITNESS: When you said
11 you made an increase, are you
12 saying me personally or you
13 McKesson?
14 BY MR. KENNEDY:
15 Q. I'm saying you McKesson,
16 your company.
17 A. Oh.
18 Q. That's wrong, isn't it?
19 MS. HENN: Objection to
20 form.
21 THE WITNESS: Not
22 necessarily. You would need to
23 know what the reason was.
24 BY MR. KENNEDY:

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1 Q. He's asking for the reason.
2 A. Right. And until we know
3 what the reason, which we haven't gotten
4 to yet, we wouldn't know.
5 Q. Well, let's go to the next
6 page. Turn that page. Let's go to
7 e-mail Number 4 then, sir.
8 Now we are on Page .3. I'm
9 sorry, .3 is e-mail Number 4. Now it's
10 four months later. It's four months
11 after, after Mr. Gustin, you agreed,
12 said, hey, unless you give us a reason we
13 can't increase these thresholds because
14 that's not right.
15 Four months later, Diane
16 Martin -- who is Diane Martin?
17 A. She worked in the
18 distribution center. I'm not sure what
19 her position was.
20 Q. She sends an e-mail now on
21 September 22, 2008, correct?
22 A. Yes.
23 Q. She sends it to Gustin. She
24 sends it to Catton in sales. She sends

<p>Page 426</p> <p>1 it to Snider. Same subject line: New 2 Castle CSMP report 75 percent, dated 3 5/28/08. Right? Correct? 4 A. Yes. 5 Q. And this is a part of the 6 same e-mail string, sir. And she writes 7 Dave -- she's talking about what occurred 8 four months earlier. And she says, 9 "Dave, since we" -- "since these were 10 bumped up without a threshold change 11 request in late May, what is the reason 12 for the increase in dosages? I'll have 13 to create some sort of threshold change 14 request for each of them and then we will 15 need some details for the action taken." 16 Is that what she wrote, sir? 17 A. That is what's written here. 18 Q. And she's talking about the 19 fact that those thresholds and that long 20 list were increased four months earlier 21 without any reason, isn't she? 22 MS. HENN: Objection to 23 form. 24 THE WITNESS: She's asking</p> <p>Page 427</p> <p>1 what is the reason. There was a 2 reason which is -- 3 BY MR. KENNEDY: 4 Q. Well, no. I'll ask about 5 that. She's asking, what is the reason 6 we increased that long list of thresholds 7 four months earlier. Isn't that what she 8 is asking, sir? 9 A. Diane is asking for the 10 reason, yes. 11 Q. And she said she's going to 12 have to create a threshold change request 13 four months after the thresholds were 14 changed, right? 15 A. She wrote here that she 16 needs some sort of threshold change 17 request for each of them and will need 18 details. 19 Q. Sir, I'm -- let me ask you 20 this. Was it the policy and procedure at 21 McKesson at this point in time, something 22 they were taking very seriously, was it 23 their policy and procedure to create the 24 request four months after the increase is</p>	<p>Page 428</p> <p>1 given? Is that what they were doing? 2 A. Absolutely not. I'm not 3 sure why Dave did not have a threshold 4 change request form at the time of the 5 increase. I can't say why he did not 6 make one out. 7 Q. Well, let's -- let's look 8 further, sir. We have Diane Martin 9 asking him, asking Dave Gustin, what's 10 the reason we made all these increases 11 four months earlier. 12 If we look up above, you see 13 that he e-mails -- e-mails her back three 14 hours later. "Reason..... RNA 15 reasonable request for a small increase." 16 And then cites Rex Catton from sales, 17 right? 18 A. Mm-hmm, right. 19 Q. So we're increasing a whole 20 bunch of people four months earlier. And 21 the reason is because somebody from sales 22 just says it's reasonable. 23 Let me ask you. Sales says 24 reasonable request for a whole bunch of</p> <p>Page 429</p> <p>1 people. Is that what you considered to 2 be the required documentation for an 3 increase in a threshold? 4 A. I don't know what reason. 5 It's not spelled out here. It could have 6 been a business increase that -- I 7 believe this was Giant Eagle was on here. 8 That Giant Eagle was seeing a business 9 growth in their pharmacies and needed 10 increases. 11 Q. Do you know that? Do you 12 know that? 13 A. I know -- no. What I'm 14 saying is there's no reason stated here. 15 Q. Okay. Well, there's not 16 only no reason stated there. But let's 17 look at -- let's look at the page before 18 that's attached. .2. 19 This is the threshold change 20 request that got created four months 21 after the fact, right? She says, "I'm 22 going to have to put one together to 23 explain what we did four months earlier." 24 And now here it is. Do you see that?</p>
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<p style="text-align: right;">Page 430</p> <p>1 Giant Eagle? 2 A. Right, I see Giant Eagle 3 and -- 4 Q. Do you see the date on 5 there? 6 A. 5/28. 7 Q. 5/28/08. Sir, 5/28/08, 8 that's not the date that this threshold 9 change request was made, is it? 10 MS. HENN: Objection to 11 form. 12 BY MR. KENNEDY: 13 Q. That's not the date that 14 this request was made. 15 A. No, it was made on the 28th, 16 the request. The request was made on the 17 28th. 18 Q. Oh, but the form wasn't made 19 on that date, correct? 20 A. I don't know what date the 21 form was made. 22 Q. Sir -- 23 A. It looks like -- right. 24 It's Diane saying that she didn't have</p>	<p style="text-align: right;">Page 432</p> <p>1 Q. And they are talking about 2 changes for hydrocodone, correct? 3 A. Correct. 4 Q. And hydrocodone is at the 5 center of the opioid crisis that's going 6 on in '08, correct? 7 A. That is correct. 8 Q. And look at the change. 9 Look at the reason for the change. 10 Reasonable request for a small increase 11 per Rex Catton from sales. 12 A. Right. Most of the requests 13 for increases would come from sales 14 because they are interacting with the 15 customer. 16 Q. Exactly. 17 A. So sales would send them 18 into regulatory. Regulatory would do the 19 review and either approve or deny based 20 off of their review. So the fact that 21 this request came from sales is not 22 atypical. 23 Q. Oh, I'm not talking -- sir, 24 I'm not talking about sales filling out a</p>
<p style="text-align: right;">Page 431</p> <p>1 one based in September. 2 Q. On September 22 of '08, and 3 now attached to that, and now the form 4 gets made, and it's dated -- it's dated 5 now 5/28/08, correct? 6 A. It is. 7 MS. HENN: Objection to 8 form. 9 BY MR. KENNEDY: 10 Q. Whoever put 5/28/08 on this 11 threshold change request knew that this 12 threshold change request form was not 13 filled out on 5/28/08. They knew it. 14 MS. HENN: Objection to 15 form. 16 BY MR. KENNEDY: 17 Q. Is that right, sir? 18 A. I -- I -- looking at what 19 this is saying with the September request 20 for a TCR form, it appears that way. 21 Q. Then let's go down here. We 22 were talking about Giant Eagle, correct. 23 And that's the customer name, correct? 24 A. Yes.</p>	<p style="text-align: right;">Page 433</p> <p>1 request form. I'm talking about sales 2 giving you the reason for the change. 3 That's what we are talking about right 4 here. 5 A. Well, sales would provide 6 the reason for the change. They would -- 7 they would tell us that the customer had 8 a -- a business increase or their 9 competitor closed or something like that. 10 And then we would take that information, 11 do our review and either make -- approve 12 or deny the request. 13 Q. All right. I'm going to 14 write that one down too. Because we're 15 going to come back to it. You're telling 16 us sales is providing you with the reason 17 for increasing your thresholds. 18 A. The reason, not the 19 justification. 20 Q. Oh, okay. So they are 21 giving you the reason, but not the 22 justification. 23 A. We decide, regulatory 24 decides if the reason given is justified.</p>

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1 Q. Coming from sales?

2 A. Coming from sales. And we

3 deny some when the reason is not

4 substantial. Or we'll go back to the

5 customer and ask for additional

6 information to support the business

7 change.

8 Q. Let's look down here. This

9 says approved. And there's a signature

10 by Blaine Snider. He dates his signature

11 5/28/08. Do you see that?

12 A. Yes.

13 Q. That ain't true, is it? He

14 didn't sign this on 5/28/08, did he, sir?

15 MS. HENN: Objection to

16 form.

17 THE WITNESS: From the

18 e-mail chain I can say that it

19 looks like it may have been

20 created in September.

21 BY MR. KENNEDY:

22 Q. And, sir, was it the -- was

23 it the practice at McKesson to backdate

24 documents so that if the DEA came in, it

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1 would look like you were fulfilling your

2 legal responsibilities, sir, was that the

3 practice at McKesson?

4 A. No, sir. That was not the

5 practice.

6 How -- how do I know this

7 one from Giant Eagle is on the list that

8 Rex approved? Is there something that

9 shows that?

10 Q. Sir --

11 A. I'm just asking.

12 Q. -- it's part of the same

13 e-mail chain, and they were all produced

14 together by your lawyer.

15 A. Okay. Because again, this

16 was done by -- not by myself. So for me

17 to speculate what took place, you're not

18 asking me of actions that I did. You're

19 asking me actions that others did.

20 Q. It was in your region,

21 wasn't it?

22 A. The distribution center was?

23 Q. Yeah.

24 A. Yes.

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1 Q. In your region, right?

2 A. Yes.

3 Q. And you were part of an

4 e-mail chain, weren't you?

5 A. Yes.

6 Q. And did you stand up when --

7 when Dave Gustin said we can't send this,

8 and we can't increase this entire list

9 unless we have a reason. I don't see an

10 e-mail back from you, saying you're

11 absolutely right, don't let this go

12 forward, this is my region.

13 Where is that e-mail?

14 MS. HENN: Objection to

15 form.

16 BY MR. KENNEDY:

17 Q. I don't see it on the e-mail

18 chain.

19 A. Again, the request came from

20 sales to Dave. And Dave had this chain.

21 And he is the one that increased it.

22 Q. Now, let's -- I'm going to

23 show you some more -- more threshold

24 change requests. This is a series of

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1 different exhibits.

2 And we're not going to use

3 the screen on this one.

4 MR. KENNEDY: This is a

5 package of different exhibits.

6 MS. ROZMAN: Collectively we

7 have MCK Oriente 525, 526, 527,

8 528, and 529.

9 (Document marked for

10 identification as Exhibit

11 MCK-Oriente-525.)

12 (Document marked for

13 identification as Exhibit

14 MCK-Oriente-526.)

15 (Document marked for

16 identification as Exhibit

17 MCK-Oriente-527.)

18 (Document marked for

19 identification as Exhibit

20 MCK-Oriente-528.)

21 (Document marked for

22 identification as Exhibit

23 MCK-Oriente-529.)

24 BY MR. KENNEDY:

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<p>1 Q. Take a look at these if you 2 would, sir. These are five different 3 threshold change requests for 2009. 4 The attachments I believe 5 are the same for each one. Take a 6 look -- more threshold requests. Five 7 different threshold change requests. 8 Correct? 9 A. Yes. 10 Q. All dated 12/30/09. 11 A. Mm-hmm. 12 Q. Correct? 13 A. Yes. End of month. 14 Q. Five different pharmacies, 15 correct? 16 A. Yes. 17 Q. All five threshold change 18 requests have a 3,000-unit increase of a 19 controlled substance, correct? 20 A. Yes. 21 Q. And the reason for the 22 requested change, be specific it says, 23 include documentation, four words: 24 "End-of-the-year buffers." Is that what</p>	<p>1 chain, this all happened in less than 2 three hours. Five requests, five 3 different pharmacies, same amount 4 requested, same amount granted, same 5 four-word reason. Right? 6 A. Mm-hmm. 7 Q. Do you know who Mr. Boggs 8 is? 9 A. Yes. 10 Q. Dave Boggs? Is he above you 11 in the chain, he's a senior regulatory 12 affairs? 13 A. Not -- not Dave Boggs. 14 Q. Dave Boggs, what is it? 15 A. Gary Boggs. 16 Q. I'm sorry. Gary Boggs. He 17 is up above you -- 18 A. Yes. 19 Q. In fact, he is a senior 20 regulatory -- 21 A. Yes, he is a senior director 22 over the eastern half of the country. 23 Q. Do you know that he gave 24 testimony on behalf of McKesson on</p>
Page 439	Page 441
<p>1 it says for all five, all five different 2 pharmacies? 3 A. End of month and end of -- 4 end of year. 5 Q. Same documents attached to 6 every single one of these requests, 7 correct? 8 A. As they were hitting their 9 monthly threshold. 10 Q. So what we have on the same 11 date, five different pharmacies are 12 getting the same increase for the same 13 four-year reason, true? 14 A. It -- it was the end of the 15 month. So customers were obviously more 16 apt to hit their threshold near the end 17 of the month. 18 Q. So the answer is true. Five 19 different pharmacies for the same 20 four-year -- four-word reason, on the 21 same date, are getting the same 3,000 22 increase, correct? 23 A. Yes. 24 Q. And if you follow the e-mail</p>	<p>1 May 23, 2018, so a month ago about? 2 A. I knew that he did. Yes. 3 Q. And with respect to these 4 thresholds, he testified, and I'm going 5 to quote, on behalf of the company, he 6 testified, "I think it's important to 7 understand that we have a very large, 8 diverse customer base and that the 9 customer base is very nuanced in terms of 10 individual sizes, individual needs, based 11 upon their business models, and, 12 therefore, there's no size one" -- or 13 "one size that fits all of that." Did 14 you know about that testimony? 15 A. I didn't know -- 16 MS. HENN: Objection to 17 form. Go ahead. 18 THE WITNESS: I didn't know 19 specifically what he said. But 20 what he's talking about took place 21 in 2018. And this document is 22 talking about increases that were 23 done in 2009. 24 BY MR. KENNEDY:</p>

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1 Q. So you don't think that
2 applies?

3 A. No, sir, that's not what I
4 said. I said that the increase in 2009
5 is not what Gary Boggs is referring to.

6 Q. Well, he was referring back
7 to your programs over the years. And yet
8 if they are all different, and you folks
9 are taking great care to set these
10 specific thresholds, we've got a
11 situation here that in one day in a
12 three-hour period, five different
13 pharmacies for the same four-word --
14 four-word reason are getting the same
15 3,000 increase. Right?

16 MS. HENN: Objection to
17 form.

18 THE WITNESS: These
19 pharmacies received 3,000 doses
20 each in order for them to get
21 additional product that they
22 needed within that month, yes.

23 BY MR. KENNEDY:

24 Q. Well, let's go back then.

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1 Look at that -- look at that Number 3 on
2 this form. That Number 3 in that form?

3 A. Where -- where are you, sir?

4 Q. Number 3. It says, "For
5 reasons requested, end-of-year buffer,"
6 and then 3 says, "Permanent or temporary
7 threshold increase."

8 And what is written there,
9 sir, as to whether or not this end of the
10 year is permanent or temporary?

11 A. It says permanent.

12 Q. Do you see any documented
13 reason as you required, any documented
14 reason as you represented to the DEA you
15 would do for a permanent increase in
16 these threshold change requests?
17 Permanent. You told us this was end of
18 the year, but they are giving these folks
19 a 3,000 increase permanent. Is that
20 true?

21 A. The increase was made
22 permanent --

23 Q. Is that true?

24 A. -- for them to make -- the

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1 increase was made permanent for them to
2 get additional product because they were
3 bumping up against their threshold.

4 Q. Permanent increase for the
5 end-of-the-year buffer. Is that what
6 happened here, sir?

7 A. Well, it says end of the
8 year. It would -- in my opinion it would
9 be an end of month because they need more
10 in the month. It's not an end-of-year
11 buffer. We don't have an end of --
12 end-of-year threshold.

13 Q. Does it say end of year?

14 A. It says end-of-year buffers.

15 Q. Right. And if you look at
16 the e-mail that it's attached to it says,
17 "Customers are calling about end of
18 year," does it not, on the e-mails? And
19 then on the reason it says end of year,
20 but you're giving them a 3,000 permanent
21 increase.

22 A. Mm-hmm.

23 Q. Let me show you another
24 exhibit, another threshold change

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1 request. All right.

2 MR. KENNEDY: 5017. This
3 one we'll bring up please.

4 MS. ROZMAN: This is MCK
5 Oriente 547.

6 (Document marked for
7 identification as Exhibit
8 MCK-Oriente-547.)

9 BY MR. KENNEDY:

10 Q. And I put numbers on this so
11 we could -- we can follow through in the
12 right order, in the right order of these
13 e-mails.

14 First e-mail chronologically
15 is on the first page. Now, Dave Gustin,
16 we know Dave Gustin, he is a director of
17 regulatory affairs like you, correct?

18 A. Yes.

19 Q. And he is in charge of the
20 entire region?

21 A. He was in charge of the
22 North Central. He I believe has since
23 retired.

24 Q. And you wouldn't expect him

<p style="text-align: right;">Page 446</p> <p>1 to be doing things that weren't 2 consistent with the policies of this 3 company, would you? You wouldn't expect 4 Dave to be doing that, he is a good guy, 5 a good employee. He is going to -- he is 6 going to follow what McKesson does, won't 7 he? 8 A. He should -- he should 9 follow the proper procedure, yes. 10 Q. So Dave Gustin, on 11 December 16, 2008, he sends an e-mail to 12 Michael Bishop. Do you see that? 13 A. Yes. 14 Q. Do you know who Michael 15 Bishop is? 16 A. Michael Bishop was a 17 regulatory affairs manager. But at this 18 time he was in the -- in 2008 when this 19 was written, he was in the retail 20 national accounts team. 21 Q. And what's that? Does that 22 make him sales? 23 A. He would have been involved 24 with customer support and sales.</p>	<p style="text-align: right;">Page 448</p> <p>1 he's writing that. So he's probably 2 talking about November 30th, two weeks or 3 so ago. Is that what he says? 4 A. It -- it doesn't say 5 November 30th. But since he has the 6 30th, it would seem to be November 30th. 7 Q. And Gustin says, "I will use 8 it for the 30 percent increases I made 9 for the regional national accounts" -- 10 those are the big chains, right? 11 A. Correct. 12 Q. He says, "I'm going to use 13 this threshold change request, I will use 14 it for the 30 percent increases I made 15 for the RNAs that day after you e-mailed 16 me all those reports. Thanks." Do you 17 see that? 18 A. Yeah -- yes. It doesn't say 19 how many were on those reports, but yes. 20 Q. It doesn't really matter, 21 does it, how many is on the reports. You 22 shouldn't be making out threshold change 23 requests more than two weeks after you 24 make the changes, should you, sir?</p>
<p style="text-align: right;">Page 447</p> <p>1 Q. So now we got a -- again, we 2 got a regulatory guy writing an e-mail to 3 sales. And the subject is could you do 4 me a favor. Do you see that? 5 A. Yes. 6 Q. And he e-mails to Bishop, 7 and he says, "Are you in" -- "are you in 8 today?" Correct? 9 A. Yes. 10 Q. Now, we turn the page. And 11 it's the same day. We look at the next 12 e-mail, it's at the top of the page. And 13 Gustin sends a second e-mail to Bishop on 14 the same day, same subject, could you do 15 me a favor. Right? 16 A. Yeah. Same subject on the 17 e-mail. 18 Q. Dave Gustin, again you would 19 expect him to follow the policies. He 20 says, "I just need a threshold change 21 request from you signed and dated the 22 30th." Do you see where he says that? 23 A. Yes. 24 Q. And it's December 16th when</p>	<p style="text-align: right;">Page 449</p> <p>1 A. He should have had the 2 documentation when he made the changes. 3 Q. He's asking him to approve a 4 30 percent increase that was made two 5 weeks earlier. Right? 6 A. He's asking for the 7 follow-up paperwork. Yeah. Dave made 8 the -- the increase. He's asking Michael 9 to make out the TCR form. It appears 10 Dave made the increase without having the 11 paperwork. 12 Q. Look down to the next -- we 13 look down to the next e-mail. It's 14 Bishop's -- he e-mails back and says, 15 "I'm in a meeting for the next 30." Do 16 you see that? It says I'm in a meeting 17 for the next 30, right? 18 A. Yes. 19 Q. Turn to the next page, and 20 it's -- it's a day later, correct? 21 A. Yeah. The 17th. 22 Q. And Bishop e-mails back 23 to Gustin. He says, "This is the 24 Thanksgiving increases." So now we're</p>

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1 back to increases for Thanksgiving,
2 right?
3 A. Right. This references
4 that -- that other e-mail that was -- or
5 that TCR form that was done on
6 Thanksgiving.
7 Q. Gustin e-mails him back and
8 says, "Yep. 11/28, right? So now we are
9 talking about more increases for
10 Thanksgiving," correct?
11 A. I believe this references
12 the same increase that the Thanksgiving
13 TCR referenced from Rex.
14 Q. And now we go to the next
15 page. And we see Bishop, it looks like
16 he sends and encloses a threshold change
17 form. Now it looks like he filled it out
18 and signed it, right? Is that correct?
19 A. Well --
20 Q. Threshold change form, see
21 that?
22 A. Yeah. Right. It just shows
23 a Word attachment. It doesn't show
24 the -- what was actually sent.

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1 Q. Well, you ask him to send
2 him back one signed. So do you think he
3 probably was sending one back signed?
4 MS. HENN: Objection to
5 form.
6 THE WITNESS: I can't tell
7 from what I'm looking at, though.
8 BY MR. KENNEDY:
9 Q. Sir, don't you find it
10 unusual that -- that Michael Bishop,
11 instead of e-mailing Gustin back and
12 saying look it, I -- I can't sign and
13 date a threshold two and a half weeks
14 late, that's -- that's not honest. But
15 he just -- do you find it unusual, he
16 just sends it back, without objecting?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: Well, in -- in
20 number --
21 BY MR. KENNEDY:
22 Q. Sir, I'm just asking, did
23 you find it unusual that you have -- you
24 have Gustin saying put something together

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1 and sign it for me and send it back. And
2 he's not saying I'm not doing that. It's
3 two and a half weeks late. I'm not doing
4 that. Do you find that unusual?
5 MS. HENN: Objection to
6 form.
7 BY MR. KENNEDY:
8 Q. Is that unusual, sir? Very
9 simple question.
10 MS. HENN: Same objection.
11 BY MR. KENNEDY:
12 Q. Was that the culture here at
13 your company?
14 A. No. No, that's not the
15 culture. Our typical process is to have
16 the paperwork when we're making the
17 increase. Dave realized he didn't have
18 the form. He asked Michael to make one
19 out so that we had a copy to support the
20 increase that was done on Thanksgiving.
21 Q. Not typical? Go up to the
22 next e-mail, please. Go up to the next
23 e-mail.
24 A. Number 7?

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1 Q. Number 7. We've got Gustin
2 now sending another e-mail. And it's --
3 it's to a different group of people. And
4 he's sending it to you also, is he not?
5 A. Yes. I'm on -- I'm on
6 the --
7 Q. December 17th?
8 A. I'm cc'd.
9 Q. Okay. And again, could you
10 do me a favor. This one isn't -- this is
11 different. This is not to Bishop. Now,
12 this is to a different group of people
13 saying, can you do me a favor, right?
14 MS. HENN: Objection to
15 form.
16 BY MR. KENNEDY:
17 Q. Right?
18 A. Well, I'm -- I'm reading it,
19 sir.
20 Q. I'll -- we'll -- you want
21 to -- we'll go through it. I'm going to
22 go through it.
23 A. Yeah, but you asked me a
24 question that I can't answer until I read

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1 it.
2 Q. I'm saying, was this to a
3 different group of people?
4 MS. HENN: Counsel, if you
5 give him a moment he'll answer
6 your question.
7 BY MR. KENNEDY:
8 Q. Was this to a different
9 group of people?
10 A. It -- this one is sent to
11 the pharmacy group DC managers. DCM.
12 Q. And it's sent to you?
13 A. I'm cc'd along with the
14 other directors, Tracy and Bill.
15 Q. And he is attaching
16 threshold change form, is he not?
17 A. It says, "The attached TCR
18 form covers all RNA increases made on
19 that date" --
20 Q. Stop. The attachment. Do
21 you see the line,
22 thresholdchangeform.doc, is that the
23 attachment?
24 A. Yes.

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1 Q. And does he state that
2 you're included, "On November 28th, I
3 sent request" -- "I was sent requests by
4 Michael for over 200 thresholds to get
5 30 percent increases for various national
6 accounts. The attached TCR form covers
7 all RNA increases made that date. Please
8 sign and file. This is not routine, but
9 I was the only DRA on and so my time was
10 spent making the changes. And I may have
11 missed some e-mails to DCs."
12 Sir, he's talking about 200
13 threshold changes at 30 percent, is he
14 not, in this e-mail? Is he not talking
15 about --
16 A. He is, but I'm not the
17 Michael he's referring to.
18 Q. Oh, but you are copied on
19 the e-mail, aren't you, sir?
20 A. Yes, but he's -- but I did
21 not send the request to him. By Michael,
22 he's meaning Michael Bishop.
23 Q. Real simple. He's talking
24 about 200 threshold change requests of

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1 30 percent on one day. True? Is that
2 what he's talking about?
3 A. That's what he wrote here,
4 yes.
5 Q. And he's talking about doing
6 it without any threshold change request
7 forms. Correct? Is that true, sir?
8 A. He -- yes.
9 Q. And now, even further, he's
10 asking these folks to sign them two weeks
11 after the date.
12 And I'm going to ask you
13 again. Is that the way things were done?
14 Is that the culture at your company with
15 respect to threshold changes?
16 A. No, sir. It's not. And
17 when it says please sign and file, they
18 could have signed them, filed them. They
19 did not need to date them for November or
20 they could have put per -- for December
21 change and dated it December.
22 Q. Well, they could have done a
23 lot of things, sir, but they put the
24 wrong date on it, sir. They put the

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1 dishonest date on every single one of
2 them, for 200 changes in one day, right?
3 MS. HENN: Objection to
4 form.
5 THE WITNESS: They put the
6 date that the increase took place
7 on.
8 BY MR. KENNEDY:
9 Q. You know what, you told us
10 how serious you took this program
11 considering we had a crisis going on in
12 this country. And so did the president
13 and CEO of your company when he testified
14 in front of Congress. Let's take a look
15 at that, sir, because I might want to ask
16 you.
17 MR. KENNEDY: If you can
18 give us 8, please.
19 (Document marked for
20 identification as Exhibit
21 MCK-Oriente-Video-8.)
22 (Video playback.)
23 REP. CASTOR:
24 Mr. Hammergren, your company

<p style="text-align: right;">Page 458</p> <p>1 McKesson distributed over 2 1.8 million opioid pills each year 3 in 20 -- 2006 and 2007 to Family 4 Discount Pharmacy. That's an 5 average of about 5,000 pills per 6 day in this rural small town. 7 Based upon figures cited by 8 DEA, McKesson shipped Family 9 Discount approximately six times 10 the amount of hydrocodone that an 11 average pharmacy in west -- in 12 rural West virginia would have 13 received during those years. 14 So similar question to you, 15 McKesson delivered millions of 16 pills to the single pharmacy. 17 Clearly that's not reasonable and 18 you should have -- you should have 19 flagged that and stopped that 20 right away. Why didn't you? 21 MR. HAMMERGREN: We did 22 terminate the relationship with 23 that pharmacy, and like 24 Mr. Barrett, I -- I would have</p>	<p style="text-align: right;">Page 460</p> <p>1 greater accountability. Thank 2 you, and I go back. 3 (Video playback ended.) 4 BY MR. KENNEDY: 5 Q. You heard him talk about 6 taking the settlement very seriously, 7 didn't you? 8 A. Yes. 9 Q. Let's look at another 10 threshold change request if we could. 11 This is 5018. 12 MS. ROZMAN: MCK Oriente 13 548. 14 (Document marked for 15 identification as Exhibit 16 MCK-Oriente-548.) 17 BY MR. KENNEDY: 18 Q. Is this another threshold 19 change request, sir? 20 A. Yes, it is. 21 Q. And this one, this one is 22 dated 11/26/08, is it not? 23 A. Yes, it is. 24 Q. And it was approved the same</p>
<p style="text-align: right;">Page 459</p> <p>1 liked to have made a decision 2 faster. 3 REP. CASTOR: Don't you take 4 responsibility for what was 5 happening back then? Was it that 6 the -- the profit motive was -- 7 simply overcame the -- you saw 8 that paying the penalties on your 9 settlement agreements was a cost 10 worth paying because you were 11 making so much money? 12 MR. HAMMERGREN: 13 Congresswoman, we take all these 14 matters very seriously. Any 15 settlement with a regulator we 16 take very seriously. Our systems 17 have evolved and we continue to 18 invest heavily to make sure that 19 situations like that don't happen 20 again. 21 REP. CASTOR: I think this 22 was the opposite of due diligence 23 that was required under the law 24 and we're going to be looking for</p>	<p style="text-align: right;">Page 461</p> <p>1 day, do you see that? Same day? 2 A. Yes. 3 Q. And the customer on here is 4 a CVS pharmacy. True? 5 A. Yes, it is. 6 Q. And they are asking for a 7 30 percent increase. Correct? 8 A. They are. 9 Q. And as you told the DEA, if 10 we are going to increase the -- a 11 threshold, if we're going to increase a 12 threshold, we will require documentation, 13 does it not? Is that what it says? 14 A. Yes. 15 Q. What you agreed to with the 16 FDA (sic), we will require documentation 17 if we're going to increase a threshold. 18 True? 19 A. Right. Threshold change 20 form. 21 Q. The reason for change. And 22 it says, "Attach supporting 23 documentation." 24 The reason for change is,</p>

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1 "Per the agreement between CVS and
2 McKesson, approved by Don Walker on
3 September 25th to temporarily withhold
4 threshold monitoring until CVS analyzed
5 the requested data."
6 And based on that statement,
7 this increase by 30 percent was approved.
8 Do you see that, sir?
9 A. Again, it was approved by
10 another regulatory director. Not myself.
11 Q. It states here that you made
12 an agreement, somebody made an agreement
13 with CVS to stop the monitoring of their
14 thresholds. Do you see that?
15 A. To temporarily withhold it,
16 yes.
17 Q. And so during this -- how
18 long this temporary -- how long --
19 A. It doesn't say on this
20 document how long temporary was.
21 Q. Is that appropriate for any
22 period, whether it's a day or two or 10
23 or a hundred, to not monitor the
24 thresholds of CVS? Is it proper?

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1 A. I can't speak on the
2 agreement that was made, because this is
3 the first time I'm seeing that, this
4 agreement between Don Walker and CVS to
5 temporary withhold this while CVS
6 analyzed requested data.
7 Q. I'm going to ask you, sir,
8 when you said to the DEA -- let's start
9 from the beginning. When Congress passed
10 the Controlled Substances Act of 1970,
11 when the DEA issued its regulations in
12 '71, when you signed the agreement with
13 the DEA in '08, did you agree with them
14 and tell them that you were just going to
15 monitor some of the pharmacies some of
16 the time?
17 MS. HENN: Objection to
18 form.
19 BY MR. KENNEDY:
20 Q. Is that what you said?
21 A. No, sir.
22 Q. And the law says you've got
23 to monitor all of the pharmacies all the
24 time. Doesn't it? Isn't that the law?

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1 MS. HENN: Objection to
2 form.
3 THE WITNESS: We may have
4 still been monitoring them. We
5 were not looking at their
6 thresholds on what they were
7 ordering for this temporary
8 period. And again, I don't know
9 if this was a week or ten days or
10 how much.
11 And again, this was done in
12 the West region, which is not my
13 area of responsibility.
14 BY MR. KENNEDY:
15 Q. Sir, let me ask -- let me
16 ask you this.
17 A. Yes.
18 Q. At this point in time,
19 you're doing business with hundreds of
20 CVSs, right, hundreds of CVSs?
21 A. Yes.
22 Q. Who is Don Walker?
23 A. Don Walker was a senior vice
24 president distribution operations who we

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1 reported into.
2 Q. He was a -- he is a national
3 guy, right?
4 A. Yes, sir.
5 Q. He makes agreements with
6 CVS, he's making national agreements,
7 right?
8 A. Yes, sir.
9 Q. Let me ask you. This
10 special arrangement that you seem to have
11 with CVS, did it have anything to do with
12 the fact that by 2008, when you had this
13 agreement not to monitor their
14 thresholds, did it have anything to do
15 with the fact that by 2008, CVS was a
16 12-billion, not million, a \$12-billion
17 customer of McKesson?
18 MS. HENN: Objection to
19 form.
20 THE WITNESS: Sir, I -- as I
21 said earlier, I don't get involved
22 with sales. So I would not even
23 know how much business McKesson
24 did with CVS on the dollar value.

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1 So I can't say what the
2 decisionmaking was.
3 BY MR. KENNEDY:
4 Q. This is all very serious
5 because there was an opioid crisis going
6 on, correct?
7 A. Yes, sir.
8 Q. Is that right?
9 A. Yes, sir.
10 Q. And diversion from
11 pharmacies like CVS was going on, was it
12 not?
13 A. During this period, I don't
14 know when the CVS had their issues in
15 Florida at two stores. But yes, there
16 was -- there was an opioid crisis in '08.
17 Q. Let's look at -- let's
18 continue with CVS. Let's look at another
19 threshold change request.
20 This is 5013.
21 MS. ROZMAN: MCK Oriente
22 543.
23 (Document marked for
24 identification as Exhibit

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1 MCK-Oriente-543.)
2 BY MR. KENNEDY:
3 Q. Another threshold change
4 request, sir?
5 A. Yes, sir.
6 Q. This is from 4/28/10, the
7 top one we're looking at. Do you see
8 that?
9 A. Yes, sir. April 28 of 2010.
10 Q. Customer name, it says, "See
11 list." Do you see that?
12 A. Yes.
13 Q. And they are looking for a
14 15 percent increase in a list of
15 different controlled substances. True?
16 A. Yes.
17 Q. Reason for requested change,
18 the required documentation. And it says
19 be specific. Do you see that, capital
20 letters, "be specific." Include
21 supporting documentation.
22 Right? That's what the form
23 states?
24 A. Yes.

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1 Q. And the reason the
2 documented, be-specific reason, is quote,
3 "per the process agreed to with McKesson
4 and the CVS loss prevention team 2/6/09,
5 Michael Oriente," that's you," will
6 provide CVS a list of any location
7 requiring CVS validation prior to further
8 threshold change requests. For now,
9 these threshold increases are considered
10 reasonable."
11 Do you see that statement,
12 sir?
13 A. Yes, I do.
14 Q. Why is this statement in
15 quotes?
16 A. I don't know. I didn't
17 write this document.
18 Q. What it says, "for now,
19 these threshold increases are considered
20 reasonable." These, what these? What
21 threshold requests, anything by CVS?
22 What's that mean when it
23 says, "These threshold changes will be
24 considered reasonable for now"? What

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1 does that mean?
2 A. Again, I did not write this
3 document so I can't speak on what it's
4 pertaining to. As you said under the
5 controlled substance requested, it says,
6 "See list."
7 So I don't know, since I
8 didn't create this document. It was
9 created by either Jake or -- and approved
10 by Tom McDonald, our West regional
11 director, again not myself.
12 Q. Sir, it looks like -- it
13 looks like CVS is getting preapproval,
14 right?
15 MS. HENN: Objection.
16 BY MR. KENNEDY:
17 Q. "For now, these threshold
18 increases are considered reasonable," in
19 quotes.
20 They are getting preapproval
21 of threshold increase requests.
22 A. What -- what --
23 MS. HENN: Objection to
24 form.

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1 BY MR. KENNEDY:
 2 Q. Isn't that what was going
 3 on?
 4 MS. HENN: Objection to
 5 form.
 6 THE WITNESS: No, sir. What
 7 it says here is that I will
 8 provide CVS a list of any location
 9 requiring CVS to validate prior to
 10 further TCRs. So it's --
 11 BY MR. KENNEDY:
 12 Q. What' the -- read the next
 13 sentence, sir. There's another sentence.
 14 A. And then the next sentence
 15 says, "For now, these threshold increases
 16 are considered reasonable."
 17 But again, I did not write
 18 this so I cannot speak on what that
 19 second sentence says.
 20 Q. You don't think this is a
 21 CVS getting threshold increased requests
 22 preapproved?
 23 A. No, sir. Not preapproved.
 24 Because it says, "For now, these

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1 threshold increases are considered
 2 reasonable." So a 15 percent increase,
 3 judging off of the list that was
 4 submitted, Jake would have submitted it
 5 and approved it and Tom McDonald in
 6 regulatory would have reviewed it and
 7 approved it.
 8 Q. Let's take a look -- let's
 9 see what's going on. Let's see what's
 10 going on, sir. Let's look at the next
 11 page.
 12 The next page is .2. Do you
 13 see that next page? We got the
 14 attachment here. Do you see that? It's
 15 one CVS store, right?
 16 A. Yes, sir.
 17 Q. And they are looking for an
 18 increase in oxycodone, correct?
 19 A. Yes. They are currently set
 20 at 11,000. They've reached 10,934 doses.
 21 Q. So the answer is yes,
 22 correct?
 23 A. Yes.
 24 Q. This page is kind of the

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1 daily report that tells you where you are
 2 with respect to the threshold increases,
 3 true?
 4 A. This report is -- I'm trying
 5 to determine what -- what report this is.
 6 Q. Do you see down the end,
 7 threshold percentage, do you see that,
 8 threshold percentage?
 9 A. Where are you?
 10 Q. Threshold percentage, on
 11 that report, page .2.
 12 A. Threshold percentage. Yes,
 13 I -- right. It shows them what their
 14 monthly threshold is, how much they
 15 bought, the threshold that they are at
 16 and then a new threshold.
 17 Q. So that increase, that's
 18 getting approved on the same day that it
 19 is made with the statement, "For now,
 20 these threshold increases are considered
 21 reasonable."
 22 A. 2,000-dose increase on an
 23 11,000 threshold.
 24 Q. And that CVS store was at

Page 473

1 99.4 percent of their threshold, right?
 2 A. Correct.
 3 Q. Now look at the next page.
 4 We've got another threshold change
 5 request, right?
 6 A. This one is January 20th.
 7 Q. Right. Another one,
 8 January 20 of '10. And you've got the
 9 same statement. Another 15 percent
 10 increase and the same statement: "For
 11 now, these threshold increases are
 12 considered reasonable." Same statement,
 13 correct?
 14 A. Yes.
 15 Q. Now, this is 1/20/10.
 16 Right?
 17 A. Yes.
 18 Q. Now, if you look at what's
 19 attached to that. They said see list.
 20 If we look at this list, on this one, you
 21 can have 12 different threshold change
 22 requests. True?
 23 A. Yes. There's 12.
 24 Q. And if you look down the

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1 list, every single one on the threshold
2 percentage down there at the end?
3 A. Mm-hmm.
4 Q. Every one of them is above
5 80 percent.
6 A. Right. This report would
7 only show those customers above
8 80 percent.
9 Q. Right. Exactly. Exactly.
10 That's what they are getting. They are
11 getting a report that says everybody is
12 above 80 percent. And now we've got --
13 one second. Now we've got 12 different
14 CVS requests. Correct? Correct?
15 A. This -- this report is
16 showing 12 thresholds that they want
17 reviewed and the customers are on the
18 report because they are above 80 percent,
19 which is where the report would frame.
20 Q. Absolutely, they are all
21 attached to one form that says hey, for
22 now these threshold increases are
23 considered reasonable.
24 And, sir, let me ask you

Page 475

1 this. Look at the top one listed. CVS
2 8944A. Do you see that top one there?
3 MS. HENN: What page are you
4 on, sir?
5 THE WITNESS: He's on this
6 one.
7 MR. KENNEDY: We're on .4.
8 MS. HENN: .4? Thank you.
9 BY MR. KENNEDY:
10 Q. Do you see that?
11 A. Yes.
12 Q. Did they have a new group of
13 doctors move into the building of the
14 pharmacy? Did they?
15 A. I cannot tell from this
16 document.
17 Q. Did they have a competitor
18 go out of business down the street?
19 A. Again, I can't tell from
20 this document.
21 Q. Only thing you can see, sir,
22 with respect to all 12 is the single
23 statement, "For now, these are considered
24 reasonable," that's all you can tell.

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1 True? Is that true, sir?
2 A. The fact that they were at
3 an 8,000 monthly threshold, which is our
4 base number, these stores were not
5 elevated to begin with.
6 Q. Sir, am I -- is it true that
7 the only statement that you see in your
8 explanation here that would even justify
9 this, is "for now these are all
10 reasonable," isn't that what a statement
11 under explanation or reason for the
12 increase of all 12 stores, right?
13 MS. HENN: Objection to
14 form.
15 BY MR. KENNEDY:
16 Q. All 12.
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: This is saying
20 that these threshold increases are
21 considered reasonable, looking at
22 each of them to go up the amount
23 that they did.
24 BY MR. KENNEDY:

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1 Q. Look -- go down to the
2 fourth one. Did they have a competitor
3 go out of business?
4 A. The request for codeine with
5 oxide?
6 Q. Yeah, codeine, that's a
7 serious drug. Did they have a competitor
8 go out of business that's justifying this
9 increase?
10 A. I cannot tell from the
11 paperwork that this is showing, no.
12 Q. What we do know is that all
13 12 of these are above 80 percent of their
14 threshold, right, all 12?
15 A. Correct.
16 Q. Is that a coincidence? Is
17 that a coincidence?
18 A. No, because --
19 Q. First group they are all
20 above --
21 MS. HENN: Counsel, counsel.
22 THE WITNESS: You're asking
23 me -- you're asking me a question.
24 I'd like to answer.

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1 BY MR. KENNEDY:
2 Q. Very good.
3 Is that a coincidence, sir?
4 A. No, it's not a coincidence,
5 but the report will only show customers
6 that are above 80 percent. It's an
7 80 percent threshold warning report.
8 Q. Exactly. Somebody is asking
9 for it, right? Somebody is asking for
10 the 80 percent report, right?
11 MS. HENN: Objection to
12 form.
13 BY MR. KENNEDY:
14 Q. And they are attaching it to
15 threshold change requests. That's what's
16 going on, right?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: I don't know
20 if they are asking for it or this
21 report is what they used to
22 generate the request.
23 Again, this was, what, eight
24 years ago. Our program was

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1 changed dramatically.
2 BY MR. KENNEDY:
3 Q. I'm talking about what's
4 going on there now. That's all I want to
5 know about, what's going on --
6 A. Now?
7 Q. -- then.
8 A. Oh, okay.
9 Q. That's what we're asking
10 about.
11 Go to the next one. .5. .5,
12 4/16/09. It says, "See list again." Do
13 you see that?
14 A. Yes.
15 Q. It says down here again,
16 reason, "For now, these threshold
17 increases are considered reasonable." Do
18 you see that?
19 A. Mm-hmm.
20 Q. And if we look at the form
21 attached. Lo and behold, all, all of
22 these CVS stores are over 80 percent,
23 right? 86, 99, 88. All of them are
24 over, right? Is -- is that correct?

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1 They are all over 80 percent?
2 A. Yes, but this -- this report
3 from 4/16 which is Item 5 is -- is not
4 even filled out. It's --
5 Q. It's supposed --
6 A. There's no DCMs. There's
7 no -- there's no sales. There's no
8 regulatory persons --
9 Q. It's supposed to be filled
10 out, isn't it?
11 A. Well, I'm -- I'm not sure
12 why it wasn't. I can only say what I'm
13 seeing and it's blank.
14 Q. Let's go to the next page.
15 A. Do these -- do these three
16 relate to this one?
17 Q. Let's go to the next page.
18 .8.
19 A. Same thing. It's --
20 Q. Sir, if they are all related
21 to the first one, then what you've got
22 going on here is someone is backdating
23 again, right?
24 MS. HENN: Counsel,

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1 objection to form.
2 THE WITNESS: I can't tell
3 from this document, sir.
4 BY MR. KENNEDY:
5 Q. Go to the next page.
6 A. I'm just saying that it's
7 not filled out with who approved it. And
8 there's no regulatory name or date.
9 Q. Let's go to the next page,
10 sir, .8. Do you see the next page?
11 A. Yeah.
12 Q. Dated 4/17/09?
13 A. Yes, sir. That's the one
14 that I'm referring to. It is -- there's
15 no --
16 Q. It says, "See list," again,
17 right?
18 A. Yes.
19 Q. It says, "For now, these
20 thresholds considered reasonable,"
21 correct?
22 A. Yes.
23 Q. And attached to that, sir,
24 now you've got seven different CVS

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1 pharmacies, correct? Is that correct?
2 A. Yes. Yes.
3 Q. And every one of them is
4 over 80 percent in their threshold so far
5 that month, correct?
6 A. Yes. I can't even tell
7 who -- who approved this, because there's
8 no name on the regulatory side of who
9 approved it. So I don't know if it was
10 Tom, Dave.
11 Q. Sir, just -- please just
12 answer my questions. All right?
13 A. Well, the --
14 Q. Just answer my questions --
15 A. The document is so vague I
16 can't comment on it.
17 Q. And it's your document,
18 isn't it --
19 A. It's not mine personally.
20 Yes, it is McKesson's.
21 Q. Is this the way things were
22 done at McKesson? That you were
23 increasing thresholds without the
24 documents even being completed?

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1 A. I was not aware of that --
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: -- nor have I
5 done that.
6 BY MR. KENNEDY:
7 Q. All right. Let go to the
8 next one. Page 11.
9 A. Mm-hmm.
10 Q. Do you see the next one?
11 4/14/09, do you see that?
12 A. Yes.
13 Q. 4/14/09 says, "See list."
14 Right?
15 A. Yes.
16 Q. "For now, these thresholds
17 increases are considered reasonable,"
18 correct?
19 A. Right. This one has Tom
20 McDonald as the regulatory person on the
21 next page.
22 Q. And now the attachment has
23 got three CVS pharmacies, true?
24 A. Yes.

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1 Q. And all of them, all of them
2 are over 80 percent of their thresholds,
3 correct?
4 A. Yes, or they wouldn't be on
5 the report.
6 Q. And go to the next one,
7 Page 14, sir.
8 A. Yes.
9 Q. Another threshold change
10 request dated 3/27/09, true?
11 A. Yes. And again, filled out
12 by Tom McDonald.
13 Q. And it states -- right. And
14 again states, "For now, these thresholds
15 increases are considered reasonable." It
16 says that again, right?
17 A. It does.
18 Q. And now you've got them
19 attached to 31 different threshold change
20 requests, right, 31 different ones, true,
21 31?
22 A. Without counting them it
23 looks about 31, yes.
24 Q. All of them are above

Page 485

1 80 percent, right?
2 A. Yes. Again, there are on an
3 80 percent and above report.
4 Q. And I can look down here and
5 I can -- I can pick the fourth one down.
6 CVS 884647.
7 Sir, tell me, what was their
8 new business that --
9 A. Which fourth one down are
10 you at?
11 Q. Go with -- just you pick
12 one. Go ahead, pick one of the CVS
13 numbers.
14 A. Well, the fourth one down is
15 7293.
16 Q. Tell me, any new business
17 documenting a threshold change request
18 and increase to them, sir?
19 A. I cannot tell from this
20 report because I didn't make this
21 adjustment.
22 Q. Every single one on this
23 form, like every single one attached, was
24 a CVS store that was over 80 percent of

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1 their threshold for the month. True?

2 A. Yes. They were over

3 80 percent.

4 Q. And the same reason is

5 stated for every single one of them.

6 "For now, consider these reasonable."

7 Correct?

8 A. That was the reason given on

9 the document. Yes.

10 Q. Sir, what you had going on

11 here was a system whereby you preapproved

12 every single CVS pharmacy that got to

13 within 80 percent of their threshold

14 automatically without them even asking,

15 that's what the agreement with CVS was,

16 true?

17 MS. HENN: Objection to

18 form.

19 THE WITNESS: I'm not aware

20 of that agreement, that if they

21 reached 80 percent they would be

22 increased. I'm not aware of

23 that -- that...

24 BY MR. KENNEDY:

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1 Q. So we just went through

2 probably 60 CVSs.

3 A. Mm-hmm.

4 Q. All of them appear in the

5 80 percent list.

6 A. Mm-hmm.

7 Q. All of them are getting a

8 15 percent increase for the same reason,

9 "For now, consider these reasonable."

10 And you're telling me there

11 was no special agreement with CVS to

12 automatically increase any single one of

13 their stores that hit the 80 percent

14 list?

15 A. I'm not aware of any

16 agreement, no.

17 Q. That would be inappropriate.

18 That would be contrary to everything you

19 agreed to do with respect to monitoring

20 the flow of opioids in our community,

21 would it not?

22 MS. HENN: Objection to

23 form.

24 BY MR. KENNEDY:

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1 Q. Wouldn't that be contrary to

2 everything you folks agreed to, a

3 pre-agreement with CVS?

4 MS. HENN: Objection to

5 form.

6 THE WITNESS: The business

7 reason for these increases is what

8 would need to be known. Whether

9 or not the store had an increase

10 in business overall and,

11 therefore, they needed certain

12 base codes increased.

13 BY MR. KENNEDY:

14 Q. What is the business reason?

15 A. There's no reason --

16 MS. HENN: Counsel.

17 THE WITNESS: There is no

18 reason here.

19 BY MR. KENNEDY:

20 Q. There is no reason, is

21 there?

22 A. There's no business reason

23 explained in this document, so.

24 Q. And every one of those

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1 increases happened the same day the

2 request was made, true, every one we

3 looked at?

4 A. Our program --

5 MS. HENN: Objection to

6 form.

7 BY MR. KENNEDY:

8 Q. Every one we looked at?

9 A. Our program, when a request

10 would come in, we would look at the

11 customers, go in through the McKesson

12 system, and review their purchases. It

13 doesn't take long to review the

14 customers' purchases. Their history of

15 what it is they are buying, looking at

16 any omits. And so to make a threshold

17 change within the same day is not out of

18 the ordinary during our review.

19 MR. KENNEDY: What -- give

20 me 5037, please.

21 MS. ROZMAN: MCK Oriente

22 564.

23 (Document marked for

24 identification as Exhibit

<p style="text-align: right;">Page 490</p> <p>1 MCK-Oriente-564.) 2 BY MR. KENNEDY: 3 Q. Sir, this exhibit is -- this 4 is an e-mail from Tom McDonald dated May 5 31, 2011. Do you see that? 6 A. Yes. 7 Q. And it's to a whole group of 8 McKesson people. Do you recognize any of 9 those people? 10 A. Let me -- just give me a 11 minute to read this. I recognize some as 12 DC, distribution center managers or 13 directors -- 14 Q. Does it state there -- 15 A. -- of operations. 16 Q. I'm sorry. The subject is 17 state high percentage threshold 18 customers? 19 A. Yeah, high percentage to 20 threshold customers. So at the end of 21 the month, these -- these people are 22 approaching their threshold. 23 Q. And does he -- 24 A. Can I have a minute to read</p>	<p style="text-align: right;">Page 492</p> <p>1 This 10 percent buffer allowed for 2 unusual (sic) fluctuations from month to 3 month. That being said, we will need to 4 make periodic adjustments to accounts as 5 they grow their business. Customers at 6 or near 100 percent on the last day of 7 that month should be reviewed and a 8 determination should be made to adjust up 9 10 percent if required." 10 Do you see that? 11 A. Yes. 12 Q. Now, you're supposed to 13 be -- 14 MS. HENN: Counsel, there is 15 one correction. I think there was 16 a -- you said "unusual" when the 17 word was "usual." 18 MR. KENNEDY: All right. 19 MS. HENN: It says, 20 "10 percent buffer used for usual 21 corrections from month to month." 22 Slight correction. 23 BY MR. KENNEDY: 24 Q. Is he talking about making</p>
<p style="text-align: right;">Page 491</p> <p>1 this? 2 MS. HENN: Yes, you may. 3 BY MR. KENNEDY: 4 Q. Well, I'm going to read it 5 through with you. We're going to read 6 every single word. We can do that 7 together or you can read it and then 8 we'll read it together. But I'm going to 9 read every word of it. All right. 10 A. Sure, go ahead. 11 Q. Does it state West -- so 12 he's probably talking to his whole 13 region. "I generally do not run the 14 threshold warning report on the last day 15 of the month. However, I believe there 16 is a use for this practice. Attached is 17 the report at 90 percent and greater ran 18 this morning. I suggest you review this 19 document. We originally set up 20 thresholds in 2008 based upon an existing 21 customer's 12-month usage number on a 22 particular base code. We then took the 23 highest month of that year and added 24 10 percent to establish a threshold base.</p>	<p style="text-align: right;">Page 493</p> <p>1 10 percent adjustment up on any customer 2 that gets to 90 percent of their 3 threshold, sir? 4 A. Okay. You're asking me 5 to -- 6 Q. Let's read that last 7 statement. "Customers at" -- 8 A. -- determine what -- you 9 asked me a question, sir. 10 Q. Let me read it back to you 11 and then I'll ask you again, sir. 12 "Customers at or near 13 100 percent of the last day of the month 14 should be reviewed and a determination 15 should be made to adjust up by 10 percent 16 if required?" 17 My question to you is, sir: 18 Does this sound like an approach, does 19 this sound like an atmosphere or a 20 culture where you folks at regulatory are 21 monitoring a program to limit the amount 22 of opioids going into our communities or 23 you are trying to sell more opioids. 24 What does that sound like to you?</p>

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1 MS. HENN: Objection to
 2 form.
 3 THE WITNESS: What you're
 4 asking me to -- my opinion here on
 5 Tom's comments is review these
 6 customers, determine if their
 7 business is growing. If so,
 8 submit those for regulatory
 9 review. It doesn't mean they are
 10 going to get it.
 11 It's not -- it's not a
 12 rubber stamp that they would be
 13 approved. It's, they can review
 14 these customers and determine,
 15 because thresholds are stagnant,
 16 or they were stagnant. They were
 17 locked in. And if a business is
 18 increasing, they are going to hit
 19 that threshold or be, as Tom puts
 20 here, near 100 percent. And so
 21 being proactive to do a review is
 22 what Tom is saying.
 23 BY MR. KENNEDY:
 24 Q. He's talking about making

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1 threshold requests without the customers
 2 even asking. He's saying look at -- look
 3 at the reports. If they are within
 4 90 percent, maybe we don't even call
 5 them.
 6 A. No, you're assuming that.
 7 Q. Let's -- I want to put this
 8 in context, why we keep talking about
 9 these thresholds.
 10 If you keep raising
 11 thresholds you're going to sell more
 12 opioids, right? That's -- that's real
 13 clear. You keep raising thresholds,
 14 you're selling more opioids, true?
 15 A. A higher threshold would
 16 permit more opioids to be sold, yes.
 17 Q. And if you keep raising
 18 thresholds, pharmacies aren't going to
 19 exceed their thresholds, correct?
 20 A. Not necessarily. They could
 21 still try to exceed them if they are
 22 growing at a faster pace than what our
 23 increase was.
 24 Q. But you're going to make

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1 that probability really small. You keep
 2 increasing those thresholds. Then
 3 pharmacies don't exceed their thresholds.
 4 And then pharmacies don't have a Level 1
 5 review and investigation triggered,
 6 correct?
 7 MS. HENN: Objection to
 8 form.
 9 BY MR. KENNEDY:
 10 Q. Because they only trigger an
 11 investigation if they exceed their
 12 thresholds, true?
 13 MS. HENN: Objection to
 14 form.
 15 BY MR. KENNEDY:
 16 Q. Is that true, sir?
 17 A. In -- back in that time
 18 frame, they would need to have an omit in
 19 order to go to a Level 1 review.
 20 Q. Which probably explains why
 21 everything we talked about this morning,
 22 you folks not reporting suspicious
 23 orders. Because if you keep raising
 24 thresholds, then people don't exceed

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1 their thresholds. And if they don't
 2 exceed their thresholds, they don't get
 3 investigated. If they don't get
 4 investigated, there is no suspicious
 5 orders, and if there's no suspicious
 6 orders, then you're not reporting
 7 anything to the FDA, sir. And then
 8 opioids are pouring into our community,
 9 sir. That's right, isn't it? What I
 10 just said is right?
 11 MS. HENN: Objection to
 12 form.
 13 THE WITNESS: No. You said
 14 FDA, sir.
 15 BY MR. KENNEDY:
 16 Q. Excuse me.
 17 A. DEA.
 18 Q. Other than FDA or DEA, what
 19 I just said is right.
 20 MS. HENN: Objection to
 21 form.
 22 THE WITNESS: The process
 23 that you explained, if -- if it
 24 took place in that manner would be

<p style="text-align: right;">Page 498</p> <p>1 correct.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. And, sir --</p> <p>4 A. As all the documents that</p> <p>5 you've shown me here, and that process, I</p> <p>6 would just like to say that those were</p> <p>7 not in the responsibility of the area</p> <p>8 that I worked. These are in the West,</p> <p>9 and in the North Central. So, you know,</p> <p>10 you're -- you're asking me just on</p> <p>11 processes that I did not do in my region.</p> <p>12 Q. With these threshold</p> <p>13 requests, sir, McKesson did everything</p> <p>14 they could possibly do with sales right</p> <p>15 in the middle of it to increase the</p> <p>16 thresholds so there would be no</p> <p>17 investigations, so there would be no</p> <p>18 suspicious orders, so there's nothing</p> <p>19 getting reported to the DEA and opioids,</p> <p>20 narcotics are pouring into our community,</p> <p>21 sir, correct?</p> <p>22 MS. HENN: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: No, I would</p>	<p style="text-align: right;">Page 500</p> <p>1 A. Oh yes. Yes.</p> <p>2 Q. Have you ever seen this</p> <p>3 before?</p> <p>4 A. I don't recall seeing this</p> <p>5 exact document. I do know that the</p> <p>6 Aurora DC I believe had to show cause.</p> <p>7 Q. All right. Go to page 12,</p> <p>8 if you would. Do you see that top</p> <p>9 paragraph. You see the top paragraph on</p> <p>10 Page 12?</p> <p>11 A. Yes, sir.</p> <p>12 Q. This is the Department of</p> <p>13 Justice, writing, writing to McKesson's</p> <p>14 lawyers, all right?</p> <p>15 A. Yes, sir.</p> <p>16 Q. They say, "Second, McKesson</p> <p>17 Aurora routinely manipulated thresholds.</p> <p>18 It would often preemptively increase</p> <p>19 thresholds of its customers on particular</p> <p>20 drugs before the customers even submitted</p> <p>21 a threshold change request seeking a</p> <p>22 threshold increase." Do you see that?</p> <p>23 A. I see that written here,</p> <p>24 yes.</p>
<p style="text-align: right;">Page 499</p> <p>1 find that not to be correct, sir.</p> <p>2 MR. KENNEDY: Give me 5043</p> <p>3 please.</p> <p>4 MS. ROZMAN: Which is MCK</p> <p>5 Oriente 570.</p> <p>6 (Document marked for</p> <p>7 identification as Exhibit</p> <p>8 MCK-Oriente-570.)</p> <p>9 BY MR. KENNEDY:</p> <p>10 Q. Sir, this is a -- this is a</p> <p>11 letter from the United States Department</p> <p>12 of -- Department of Justice dated</p> <p>13 August 13, 2014. Correct?</p> <p>14 A. Yes.</p> <p>15 Q. And it is sent to attorneys</p> <p>16 representing McKesson. Is that what it</p> <p>17 indicates? Covington & Burling LLP in</p> <p>18 Washington D.C. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And this relation -- in all</p> <p>21 fairness, it relates to the Aurora</p> <p>22 distribution center. Do you see that?</p> <p>23 A. Where does it say Aurora?</p> <p>24 Q. First paragraph.</p>	<p style="text-align: right;">Page 501</p> <p>1 Q. That's what we've been</p> <p>2 talking about, right? In all parts of</p> <p>3 the country, that's what we've just been</p> <p>4 talking about for the last two hours,</p> <p>5 right?</p> <p>6 A. When -- when you said all</p> <p>7 different parts of the country, sir. Not</p> <p>8 in my part of the country.</p> <p>9 Q. Let's go down, sir. "Time</p> <p>10 and time again, McKesson Aurora increased</p> <p>11 a customer's threshold in a particular</p> <p>12 month so that customer did not exceed</p> <p>13 that threshold and thus trigger McKesson</p> <p>14 Aurora's obligation to conduct a Level 2</p> <p>15 or 3 review." Do you see that?</p> <p>16 A. I do see that written here,</p> <p>17 yes.</p> <p>18 Q. And that's exactly what</p> <p>19 we've been talking about the last couple</p> <p>20 hours, right?</p> <p>21 MS. HENN: Objection to</p> <p>22 form.</p> <p>23 THE WITNESS: That is what</p> <p>24 you've pointed out. Yes.</p>

<p style="text-align: right;">Page 502</p> <p>1 BY MR. KENNEDY: 2 Q. And the third it says, 3 "McKesson Aurora was often willing to 4 increase a pharmacy's threshold for the 5 flimsiest of reasons and without adequate 6 investigation." Do you see that, sir? 7 A. Yes. 8 Q. Things like Thanksgiving, 9 right, things like end-of-the-year 10 increase, right, sir, things like because 11 we consider this reasonable or things 12 like Mr. Catton from sales says this is 13 reasonable. Flimsy, flimsy reasons. 14 MS. HENN: Objection to 15 form. And I'd just like to note 16 to the people on the phone, 17 there's somebody without their 18 mute button on, and if everyone 19 could just make sure you are on 20 mute, we would appreciate it. 21 BY MR. KENNEDY: 22 Q. You see, sir, that's what 23 we've been talking about, right? That's 24 what we've been talking about.</p>	<p style="text-align: right;">Page 504</p> <p>1 suspicious order. The Level 1 review. 2 True? 3 A. The Level 1 was initiated 4 when a customer would have an omit. It 5 doesn't mean it's necessarily suspicious. 6 Q. Now we're going to -- we're 7 going to -- I'm -- I'm -- we're going to 8 go back because we need to -- we need to 9 kind of follow the protocol rules. 10 A. Mm-hmm. 11 Q. You listen very careful to 12 my question. My question is real simple. 13 Level 1 reviews. That was 14 the first step in the investigation as to 15 whether or not an order was suspicious. 16 Correct? 17 MS. HENN: Objection to 18 form. You can answer. 19 BY MR. KENNEDY: 20 Q. That's the first step. It 21 gets triggered -- 22 A. Yes, when an omit occurs -- 23 yes. 24 Q. -- when a customer orders</p>
<p style="text-align: right;">Page 503</p> <p>1 A. Yes. Some -- some of the 2 reasons that you pointed out were not as 3 strong as they could have been. 4 Q. Well, their reasoning -- I'm 5 sorry -- 6 MS. HENN: Counsel. I just 7 want to make sure he has a chance 8 to finish. 9 MR. KENNEDY: Go ahead. I'm 10 so sorry. 11 BY MR. KENNEDY: 12 Q. Go ahead, sir. 13 A. That the reasons were not as 14 strong as they could have been. Again, 15 the request could come from sales who has 16 spoken with the customer and they are 17 conveying the message. It didn't come 18 from the customer to regulatory. It went 19 through sales. That was the -- that was 20 the program. 21 Q. So let me ask you. Let's 22 talk about these Level 1 reviews real 23 quick. Level 1 reviews. That is the 24 first step in identifying, recognizing a</p>	<p style="text-align: right;">Page 505</p> <p>1 over the threshold, right? 2 A. Yes. 3 Q. But if you keep raising 4 thresholds, nobody ever orders over the 5 threshold. We've been through that, 6 correct? 7 A. Correct. 8 MS. HENN: Objection to 9 form. 10 BY MR. KENNEDY: 11 Q. But Level 1 is the first 12 level investigation to determine whether 13 or not the order is suspicious, true? 14 A. Yes. 15 MR. KENNEDY: Now, give me 16 5036. 17 BY MR. KENNEDY: 18 Q. I'm going to look at what 19 McKesson agreed to in the DEA 2008 20 settlement agreement with respect to 21 reviewing customers that ordered over 22 their threshold. All right? 23 MS. ROZMAN: That's MCK 24 Oriente 563.</p>

<p style="text-align: right;">Page 506</p> <p>1 (Document marked for 2 identification as Exhibit 3 MCK-Oriente-563.) 4 MS. HENN: And we will need 5 a break relatively soon if there 6 is a good spot to stop. 7 BY MR. KENNEDY: 8 Q. Do you see that, Page 1? 9 A. Mm-hmm. 10 Q. This is the settlement 11 agreement between the Department of 12 Justice and the DEA and McKesson. True? 13 A. Yes. Yes. 14 Q. All right. And this says, 15 "This agreement is applicable to all of 16 McKesson's distribution centers," right, 17 when it says, "DEA registered 18 facilities." True? 19 A. Yes. 20 Q. If you go to Page .3. See 21 where it says terms and conditions? 22 A. Yes, sir. 23 Q. And it says obligations of 24 McKesson?</p>	<p style="text-align: right;">Page 508</p> <p>1 DEA, or II, based upon a detailed review, 2 the order is for a legitimate purpose and 3 the controlled substances are not likely 4 to be diverted into other than legitimate 5 medical, scientific or industrial 6 channels." 7 Do you see that? 8 A. Yes. 9 Q. So you're agreeing that if a 10 customer orders over their threshold that 11 we've been talking about, McKesson is 12 going to have somebody in place, it was 13 your Level 1, that's the start, you're 14 going to have somebody in place that's 15 been trained, that has been trained to 16 detect suspicious orders for the purposes 17 of determining whether such orders are 18 legitimate, whether they are being 19 diverted into -- or not being diverted 20 and only being used for legitimate 21 scientific, medical, and industrial 22 channels. That's what you agreed to. 23 MS. HENN: Objection to 24 form.</p>
<p style="text-align: right;">Page 507</p> <p>1 A. Yes. 2 Q. And this is what McKesson 3 agreed to with the United States 4 government, right? 5 A. Yes. 6 Q. And this is after the 7 payment of a \$13 million fine, true? 8 A. Yes. 9 Q. And it states under McKesson 10 obligations, "A, McKesson agrees to 11 maintain a compliance program designed to 12 detect and prevent diversion of 13 controlled substances as required under 14 the CSA and applicable DEA regulations. 15 "This program shall include 16 procedures to review orders for 17 controlled substances." 18 This is the important part: 19 "Orders that exceed established 20 thresholds and criteria will be reviewed 21 by a McKesson employee trained to detect 22 suspicious orders for the purposes of 23 determining whether, I, such orders 24 should not be filled and reported to the</p>	<p style="text-align: right;">Page 509</p> <p>1 BY MR. KENNEDY: 2 Q. Correct? 3 A. That -- that is what 4 McKesson agreed to, yes. 5 Q. Now, sir, McKesson, the 6 program that you set up, would I be 7 correct that you got a customer, let's 8 say OxyContin, let's say OxyContin, 9 they've reached their threshold. And 10 that's a dangerous drug, right? 11 OxyContin is a dangerous drug. It's in 12 the middle of this crisis, correct? 13 A. If it's not used in it -- as 14 prescribed, yes, it's a dangerous drug. 15 Q. So I've got a customer and 16 they order over their threshold for 17 OxyContin. That triggers a Level 1 18 review. 19 McKesson had salespeople. 20 You had salespeople doing your Level 1 21 reviews. Salespeople, sir. 22 A. I'm not aware of salespeople 23 doing Level 1 reviews. 24 MS. HENN: Objection to</p>

<p style="text-align: right;">Page 510</p> <p>1 form.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. Sir --</p> <p>4 A. Customer service -- again,</p> <p>5 sir, I can only speak for my region and I</p> <p>6 know in my distribution centers --</p> <p>7 MR. KENNEDY: 5030 please.</p> <p>8 MS. HENN: Are you done with</p> <p>9 your answer?</p> <p>10 THE WITNESS: No.</p> <p>11 In my region, sir, customer</p> <p>12 service people at the distribution</p> <p>13 center would make calls to the</p> <p>14 customer and go through that list,</p> <p>15 one, Level 1 excuse me, Level 1</p> <p>16 review.</p> <p>17 MS. ROZMAN: This is MCK</p> <p>18 Oriente 559.</p> <p>19 (Document marked for</p> <p>20 identification as Exhibit</p> <p>21 MCK-Oriente-559.)</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Sir, what we're showing you</p> <p>24 here is Exhibit 559, that's a Level 1</p>	<p style="text-align: right;">Page 512</p> <p>1 yes.</p> <p>2 Q. Sales. Let's look at the</p> <p>3 second page.</p> <p>4 A. I can only comment on what I</p> <p>5 know and in my area that I know. Sales</p> <p>6 do not do Level 1s.</p> <p>7 Q. Let's look at the second</p> <p>8 page. We'll go quick. Second page.</p> <p>9 8/20/08. Got another sales manager doing</p> <p>10 a Level 1 investigation, correct, another</p> <p>11 sales manager doing another</p> <p>12 investigation. Correct?</p> <p>13 A. Yes. This was at the Denver</p> <p>14 DC. Again, it looks like they were using</p> <p>15 account managers to assist with Level 1s.</p> <p>16 Q. Let's go to the next page.</p> <p>17 11/25/09. Kealey Pharmacy. Matt Lange,</p> <p>18 regional sales manager. He is doing the</p> <p>19 investigation, right?</p> <p>20 A. Yeah, 8144. I'm not sure of</p> <p>21 which distribution center that is, but</p> <p>22 it's not one of mine again, sir.</p> <p>23 Q. Next page.</p> <p>24 A. Next one. Retail sales</p>
<p style="text-align: right;">Page 511</p> <p>1 documentation form. Is it not?</p> <p>2 A. Observation Level 1</p> <p>3 documentation form. Yes. Out of the</p> <p>4 Denver distribution center. Again, not</p> <p>5 in my area for me to know about.</p> <p>6 Q. This form is used across the</p> <p>7 country -- this form is used across the</p> <p>8 country, is it not? This is a standard</p> <p>9 form used across the country?</p> <p>10 A. Yes, sir.</p> <p>11 Q. We see here on a Level 1</p> <p>12 investigation dated 5/25/08. Do you see</p> <p>13 that?</p> <p>14 A. Mm-hmm, yes, sir.</p> <p>15 Q. For Carl's Pharmacy, which</p> <p>16 means they breached their threshold</p> <p>17 because we are at a Level 1. And Dave</p> <p>18 Grushey, an account manager, did the</p> <p>19 investigation?</p> <p>20 A. In this case, yes, he did do</p> <p>21 it. Again, sir, this is not in my area.</p> <p>22 Q. He is a part of sales,</p> <p>23 right?</p> <p>24 A. He's an account manager,</p>	<p style="text-align: right;">Page 513</p> <p>1 manager Washington Courthouse. That</p> <p>2 would be a Dave Gustin.</p> <p>3 Q. And that's February 24th,</p> <p>4 right? That's in the Midwest, right?</p> <p>5 A. North Central, sir.</p> <p>6 Q. North Central.</p> <p>7 Next page. .5. 2/19/10.</p> <p>8 We've got another regional sales manager</p> <p>9 doing a Level 1 investigation to look for</p> <p>10 suspicious order, right? Is that right?</p> <p>11 A. Doing the -- doing the</p> <p>12 Level 1 to find out from the customer why</p> <p>13 they omitted.</p> <p>14 Q. All right. Now we've got</p> <p>15 a --</p> <p>16 A. And that was, again, Dave</p> <p>17 Gustin's North Central Chicago DC.</p> <p>18 Q. Go to the next page, .6.</p> <p>19 We've got another sales manager on 12/29,</p> <p>20 correct?</p> <p>21 A. Yes. Again, the North</p> <p>22 Central DC.</p> <p>23 Q. Now we go to the next page.</p> <p>24 We've got another sales manager, right,</p>

<p style="text-align: right;">Page 514</p> <p>1 on 6/30/09, right?</p> <p>2 A. Yes. On this one the DC is</p> <p>3 listed as 1844, but I believe they mean</p> <p>4 8144.</p> <p>5 Q. Where is that?</p> <p>6 A. 8144 is North Central. Dave</p> <p>7 Gustin's area again.</p> <p>8 Q. Next one we got 1/14/10.</p> <p>9 Another regional sales manager doing a</p> <p>10 Level 1 investigation. Is that right,</p> <p>11 sir?</p> <p>12 MS. HENN: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: It is correct.</p> <p>15 Again, not in my area of</p> <p>16 responsibility of the Northeast,</p> <p>17 sir.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. Sir, sir, can we agree here</p> <p>20 and have an understanding that sales</p> <p>21 folks, sales folks at McKesson, they have</p> <p>22 a financial interest in the outcome of a</p> <p>23 Level 1 investigation, true?</p> <p>24 A. They are obtaining the</p>	<p style="text-align: right;">Page 516</p> <p>1 THE WITNESS: I'm not -- I'm</p> <p>2 not familiar with the sales</p> <p>3 retention policies. I'm not in</p> <p>4 sales, sir. I don't get involved</p> <p>5 with that.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Sales is all through your</p> <p>8 program. Sales is at every single aspect</p> <p>9 of this controlled substances monitoring</p> <p>10 program. They are calling the customers</p> <p>11 to ask them if they want to increase</p> <p>12 their thresholds. They are doing Level 1</p> <p>13 reviews, sir. They are providing the</p> <p>14 information for the onboarding, the</p> <p>15 beginning of the process, as to whether</p> <p>16 or not you are going to sell these folks</p> <p>17 opioids, and you don't know their</p> <p>18 compensation package?</p> <p>19 MS. HENN: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: No, sir, I</p> <p>22 don't know their compensation</p> <p>23 package.</p> <p>24 BY MR. KENNEDY:</p>
<p style="text-align: right;">Page 515</p> <p>1 information here on a Level 1. It would</p> <p>2 go to a Level 2 and 3 that the regulatory</p> <p>3 director would be responsible for.</p> <p>4 Q. Can you answer my question?</p> <p>5 A. Yeah.</p> <p>6 Q. My question is real simple.</p> <p>7 A. Okay.</p> <p>8 Q. A salesperson at McKesson</p> <p>9 has a financial interest in the outcome</p> <p>10 of a Level 1 investigation of one of your</p> <p>11 customers. Is that true, sir?</p> <p>12 A. They could because of the</p> <p>13 compensation package which again I'm not</p> <p>14 totally familiar with because I'm not in</p> <p>15 sales.</p> <p>16 Q. Well, let me -- just -- it's</p> <p>17 more than that. Number one, your</p> <p>18 salespeople got a bonus for retention of</p> <p>19 customers, correct? If they could retain</p> <p>20 all the customers in their region for a</p> <p>21 one-year period, they got a</p> <p>22 thousand-dollar bonus, did they not, sir?</p> <p>23 MS. HENN: Objection to</p> <p>24 form.</p>	<p style="text-align: right;">Page 517</p> <p>1 Q. Are you disagreeing with me</p> <p>2 when I tell you that they got paid a</p> <p>3 bonus if they could retain all of the</p> <p>4 customers each year?</p> <p>5 MS. HENN: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: I'm not</p> <p>8 disagreeing with you. I'm saying</p> <p>9 I am not aware of it. It has</p> <p>10 no --</p> <p>11 MR. KENNEDY: 5035, please.</p> <p>12 THE WITNESS: It has no</p> <p>13 determination on my decision when</p> <p>14 I made them working on my</p> <p>15 customers in the Northeast in</p> <p>16 regulatory.</p> <p>17 MS. HENN: Counsel, is this</p> <p>18 a good time for a break? We've</p> <p>19 been going about an hour and</p> <p>20 20 minutes.</p> <p>21 I'm going to just ask for a</p> <p>22 break. Thank you.</p> <p>23 MR. KENNEDY: Yeah, that's</p> <p>24 fine.</p>

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1 THE VIDEOGRAPHER: Stand by
 2 please. Remove your microphones.
 3 The time is 5:40 p.m. Off the
 4 record.
 5 (Short break.)
 6 THE VIDEOGRAPHER: We are
 7 back on the record. The time is
 8 4:56 p.m.
 9 BY MR. KENNEDY:
 10 Q. All right, Mr. Oriente. We
 11 just asked to take a look at 5035 if we
 12 could.
 13 MS. ROZMAN: Which is MCK
 14 Oriente 562.
 15 (Document marked for
 16 identification as Exhibit
 17 MCK-Oriente-562.)
 18 MS. HENN: 562 you said?
 19 MS. ROZMAN: Yeah. Here --
 20 MS. HENN: Oh, this is new?
 21 MS. ROZMAN: Yeah.
 22 THE WITNESS: Thank you.
 23 BY MR. KENNEDY:
 24 Q. And you had indicated that

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1 you didn't really know and understand how
 2 the salespeople were compensated at
 3 McKesson, is that right?
 4 A. That is correct. I didn't
 5 get involved with compensation plans for
 6 sales.
 7 Q. Here is a memo to U.S.
 8 pharmaceutical retail sales team. Do you
 9 see that?
 10 A. Yes.
 11 Q. Dated April 1, 2010?
 12 A. Yes.
 13 Q. Talking about the
 14 compensation plan. Do you see that?
 15 A. Yes.
 16 Q. And does it state, it's
 17 highlighted, "Win new business. We
 18 continue to emphasize on new accounts and
 19 have raised the commission factor to
 20 enrich the payouts."
 21 A. Yes, on new accounts.
 22 Q. Next bullet. "Prove our
 23 value everyday and maintain 100 percent
 24 customer retention." Do you see that?

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1 A. Yes.
 2 Q. "The more customers you have
 3 enrolled in the programs and maintained
 4 participation within your territory, the
 5 more commission dollars you earn." Do
 6 you see that?
 7 A. Yes.
 8 Q. Finally it says, "We ask the
 9 retail compensation council to guide the
 10 development of a compensation plan that
 11 rewards you for sales results, and I'm
 12 pleased to announce that we've increased
 13 the total annualized target payout." Do
 14 you see that?
 15 A. Yes.
 16 Q. And can we agree, sir, that
 17 if you tell a customer that one of their
 18 orders is suspicious and you refused to
 19 ship them controlled substances, and you
 20 report them to the DEA, that you're not
 21 going to maintain a good sales
 22 relationship with that customer?
 23 MS. HENN: Objection to
 24 form.

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1 BY MR. KENNEDY:
 2 Q. Would that be true?
 3 A. That is correct. And I
 4 truly did not, in my region, have a good
 5 relationship with our salespeople because
 6 we had basically conflicting goals. They
 7 were interested in sales and I was
 8 interested in regulatory. So, you know,
 9 there were salespeople that didn't like
 10 my decisions, but they had to live with
 11 them because I had the final say.
 12 MR. KENNEDY: Can you read
 13 back the question.
 14 BY MR. KENNEDY:
 15 Q. I want you to listen to the
 16 question and I want you to try to answer
 17 my question as opposed to giving speeches
 18 about what you want to talk about. Is
 19 that agreeable?
 20 MS. HENN: Counsel.
 21 BY MR. KENNEDY:
 22 Q. So I'm going to read back
 23 the question and you try to answer it
 24 again.

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1 MR. KENNEDY: Go ahead,
2 please.
3 (Whereupon, the court
4 reporter read back the requested
5 portion of testimony.)
6 BY MR. KENNEDY:
7 Q. Do you agree with that
8 statement, sir?
9 A. Yes.
10 Q. Go back for a second. I
11 want to still talk about these Level 1
12 reviews if we could.
13 MR. KENNEDY: Go back to
14 5036. I want to --
15 MS. HENN: 5036?
16 MR. KENNEDY: Yes, 5036
17 which is Exhibit 563.
18 BY MR. KENNEDY:
19 Q. This is the agreement that
20 you made with the FDA. Again, I think
21 it's Page 12.
22 MS. HENN: DEA, counsel.
23 BY MR. KENNEDY:
24 Q. Yeah. This is the agreement

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1 with the DEA in 2008. And we're back to
2 the obligations.
3 It's right up on the board
4 if...
5 MS. HENN: Do you have the
6 document?
7 THE WITNESS: Yeah, but
8 it's page -- 563 --
9 MR. KENNEDY: I'm sorry,
10 Page 3.
11 THE WITNESS: -- only has 11
12 pages, so it can't be on Page 12.
13 MS. HENN: Page 3.
14 THE WITNESS: Okay. Thank
15 you.
16 BY MR. KENNEDY:
17 Q. Page 3.
18 A. Okay.
19 Q. This is the agreement again.
20 This is your -- McKesson's agreement with
21 the DEA in 2008 after paying the
22 \$13 million fine. This is what they
23 agreed with respect to reviewing folks
24 that went over the thresholds.

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1 The red line, orders that
2 exceed thresholds, it says, "Establish
3 thresholds and criteria, will be reviewed
4 by a McKesson trained to detect
5 suspicious orders for the purposes of
6 determining whether, I, such orders
7 should be not filled and reported to the
8 DEA, or II, based upon a detailed review
9 the order is for a legitimate purpose and
10 the controlled substances are not likely
11 to be diverted into other than legitimate
12 scientific or industrial channels."
13 Now, from what you've told
14 me, and from what the CEO from your
15 company told Congress, you took this
16 seriously, right, this is important.
17 You're reviewing folks that have gotten
18 above their threshold or ordered above
19 their threshold, correct?
20 A. They ordered above, but did
21 not receive above their threshold, yes.
22 Q. And Level 1 reviews,
23 according to your protocol, sir, they
24 were being done by warehouse managers,

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1 were they not?
2 MS. HENN: Objection to
3 form.
4 BY MR. KENNEDY:
5 Q. Inventory managers, were
6 they not?
7 A. Not in my region. They were
8 done by customer service people in the
9 office.
10 MR. KENNEDY: Need 5044
11 please.
12 BY MR. KENNEDY:
13 Q. Customer service folks?
14 A. Yeah.
15 Q. Those are salespeople you
16 told us?
17 A. Not necessarily. In the
18 distribution center they have nothing to
19 do with sales. They are customer
20 service. They handle delivery issues.
21 They handle customer concerns. But they
22 are not in the sales department.
23 Q. Let's look at Exhibit 571.
24 MS. ROZMAN: It's identified

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1 as MCK Oriente 571.
2 (Document marked for
3 identification as Exhibit
4 MCK-Oriente-571.)
5 BY MR. KENNEDY:
6 Q. So I want to ask you, we
7 want to look at how serious you were
8 taking these Level 1 reviews. The first
9 step in identifying suspicious orders.
10 Do you see this, this is Exhibit 571.
11 CSMP, controlled substances monitoring
12 program observation Level 1 documentation
13 form. Do you see that?
14 A. Yes, sir.
15 Q. And this Level 1 review on
16 3/20/09 was done by the inventory
17 manager, is that right?
18 A. Yes, this one was done by a
19 DC inventory manager out of the West
20 region.
21 Q. And it was for oxycodone.
22 That drug is in the middle of this
23 crisis, is it not, sir?
24 A. Oxycodone is one of the

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1 drugs in this crisis, yes.
2 Q. Not just one of them, sir.
3 It's in the middle of the crisis. Right?
4 A. Well, I mean it -- I can't
5 say that oxycodone was any worse than
6 hydrocodone. They were -- You know, it
7 depends on the area of the country.
8 Q. Let's look at .2. Second
9 page.
10 We got another Level 1
11 investigation of a customer that has
12 exceeded their threshold on 3/31/10. Now
13 you've got a warehouse manager doing the
14 investigation for oxycodone. Is that
15 true, sir?
16 A. According to this document
17 it is, sir.
18 Q. Let's --
19 A. Again, you are asking me
20 about a document I've never seen and
21 about a region I'm not responsible for.
22 Q. It was the culture at this
23 company, sir, it was the culture at this
24 company that you did not take monitoring

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1 seriously.
2 MS. HENN: Objection to
3 form.
4 THE WITNESS: I would
5 disagree with that. Because in
6 the area that I was responsible
7 for, in the Northeast region, sir,
8 these actions did not take place
9 by warehouse managers.
10 So again, this is all in the
11 West that I had no responsibility
12 for, sir.
13 BY MR. KENNEDY:
14 Q. We're not going to go
15 through them all, sir. But time and time
16 again, we've got warehouse managers doing
17 Level 1 investigations of your customers,
18 sir.
19 And who did you say was
20 doing it in your place?
21 A. Customer service reps.
22 Q. Customer service reps. So
23 we got inventory managers doing Level 1
24 investigations, warehouse managers, and

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1 in your area you've got customer service
2 folks, is that right?
3 A. Yes, sir. Now.
4 Q. And --
5 A. Go ahead.
6 Q. That's who is doing it where
7 you are?
8 A. Yes, but what I wanted to
9 say was warehouse managers and DC
10 inventory managers are not in sales, sir.
11 Q. Oh, I know, sir. That I
12 know. So we've got salespeople doing it,
13 inventory guys doing it, warehouse folks
14 doing it, and your folks were called
15 what?
16 A. Customer service.
17 Q. Customer service. Are those
18 folks even full-time employees?
19 A. Yes, sir.
20 Q. Let's change -- let me --
21 let me ask you how serious these
22 investigations were at McKesson.
23 MR. KENNEDY: Give me 5039.
24 MS. ROZMAN: Identified as

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1 MCK Oriente 566.
 2 (Document marked for
 3 identification as Exhibit
 4 MCK-Oriente-566.)
 5 BY MR. KENNEDY:
 6 Q. This is an e-mail from Jake
 7 Kramer. Who is Jake Kramer?
 8 A. Jake Kramer was the
 9 distribution manager in Denver
 10 distribution center.
 11 Q. He's sending an e-mail on
 12 February 28, 2012 to Robert Perrich,
 13 true?
 14 A. Yes. I don't know what
 15 position Robert Perrich held or holds.
 16 Q. And its subject is, it says
 17 omit report. That would mean this --
 18 this customer ordered over their
 19 threshold, right?
 20 A. The CSMP omit V report, yes,
 21 would be for customers that ordered above
 22 their threshold.
 23 Q. Now, we are over the
 24 threshold with a customer. We've

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1 triggered a Level 1 review, correct?
 2 A. It should have, yes.
 3 Q. And what does he say here?
 4 So now you've got somebody over their
 5 threshold. We need to investigate. This
 6 could be a suspicious order. And he says
 7 here, "Can you call prescription shop and
 8 see if they need an adjustment?"
 9 That's an increase in the
 10 threshold, right? Is that what that is?
 11 A. He's calling them to see if
 12 they need an adjustment and what is --
 13 what is the reason, if it's a Level 1,
 14 what is the reason for the omit.
 15 Q. And when he says, he says,
 16 he's not talking about investigation.
 17 His response to an order over the
 18 threshold is to have somebody else call
 19 the pharmacy and say hey, do you need us
 20 to raise your threshold. It sounds like
 21 a sales call, not a program that's been
 22 put into place to monitor and control the
 23 opioids going into our communities,
 24 right? Isn't that what it sounds like to

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1 you?
 2 MS. HENN: Objection to
 3 form.
 4 THE WITNESS: No, it doesn't
 5 because you're not following
 6 through on the rest of the review.
 7 So a Level 1 is to gather the
 8 reason why the customer omitted.
 9 And in this case they are asking
 10 him if he needs an adjustment.
 11 The customer may say he needs an
 12 adjustment. Regulatory would then
 13 review that and not necessarily
 14 make the increase based off of the
 15 review.
 16 MR. KENNEDY: Let's go to
 17 5042.
 18 MS. ROZMAN: MCK Oriente
 19 569.
 20 (Document marked for
 21 identification as Exhibit
 22 MCK-Oriente-569.)
 23 BY MR. KENNEDY:
 24 Q. Sir, this is an e-mail from

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1 Jake Kramer. And Jake Kramer again is
 2 who?
 3 A. Jake Kramer was the
 4 distribution center manager in the Denver
 5 distribution center.
 6 Q. This is August 19, 2010. Do
 7 you see that?
 8 A. Yes.
 9 Q. To John Schultz, right? Do
 10 you know who John Schultz is?
 11 A. I don't.
 12 Q. What about cc'd to
 13 Saltzgaber?
 14 A. I don't know Kirk either.
 15 Q. And it says subject sales
 16 ride-along Southern Colorado. Right?
 17 A. Yes.
 18 Q. And he says, "John, below is
 19 a list of must-see accounts." So those
 20 would probably be pharmacies, correct?
 21 A. Yes.
 22 Q. "Their monthly thresholds
 23 are at a level. I would like to visit
 24 them again and see the business for

<p style="text-align: right;">Page 534</p> <p>1 myself. They have, quote, 'absolutely 2 nothing to worry about.' But part of the 3 CSMP, our monitoring program, requires 4 that I visit accounts over a certain 5 threshold." 6 So these folks are at a 7 Level 1 and he's assuring everybody, he's 8 going to visit them, but they've got 9 absolutely nothing to worry about. I 10 just need to do it because that's what 11 our monitoring program says. Is that 12 what's going on here? 13 A. It doesn't -- 14 MS. HENN: Objection to 15 form. 16 THE WITNESS: It doesn't say 17 Level 1. It says their monthly 18 thresholds are at a level, I would 19 like to visit them. There is no 20 mention here of Level 1. 21 BY MR. KENNEDY: 22 Q. Do you think this is an 23 appropriate response and message and 24 culture, sir, that they've got absolutely</p>	<p style="text-align: right;">Page 536</p> <p>1 MS. ROZMAN: Identified as 2 MCK Oriente 567. 3 (Document marked for 4 identification as Exhibit 5 MCK-Oriente-567.) 6 BY MR. KENNEDY: 7 Q. This e-mail string -- 8 MS. HENN: Hang on. Sorry, 9 I haven't gotten it to him yet, 10 Counsel. 11 THE WITNESS: Thank you. 12 BY MR. KENNEDY: 13 Q. Do you see the e-mail, it 14 starts at the bottom. The first e-mail 15 is from Tom McDonald to Jake Kramer. Who 16 is Tom McDonald? 17 A. Tom McDonald is the director 18 of regulatory affairs, was the director 19 of regulatory affairs in the West region. 20 He now has responsibility for the SoCal 21 distribution center and Sacramento 22 distribution center. Two DCs only in the 23 West now. 24 Q. Tom McDonald writes to Jake</p>
<p style="text-align: right;">Page 535</p> <p>1 nothing to worry about, that's what 2 you're telling your folks. Because I 3 just do it because -- 4 A. I can't speak for what -- 5 Q. -- that's what our program 6 says. 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: Yeah, I can't 10 speak for what Jake was saying 11 here. 12 You know, he may have just 13 seen that they were approaching 14 their threshold and wanted to 15 visit them, because I know we made 16 a requirement that customers at a 17 certain level be visited and 18 that's what he's referring to. 19 His wording that they have 20 absolutely nothing to worry about, 21 I don't know what he's basing that 22 off of. 23 MR. KENNEDY: Give me 5040 24 please.</p>	<p style="text-align: right;">Page 537</p> <p>1 Kramer on September 26, 2012. He says, 2 "This is another one with a high 3 oxycodone ratio." What does that mean? 4 What does that high oxycodone ratio 5 means? 6 A. That means that his 7 oxycodone purchases to his overall RX 8 purchases are at an elevated percentage. 9 Q. And Jake Kramer, he 10 responds, "Everybody is high. Everybody 11 is high, Tom. Are we supposed to cut 12 everybody off?" 13 A. My answer to that would be 14 yes. 15 Q. That ain't what they did, is 16 it? 17 A. I don't know what they did. 18 MS. HENN: Objection to 19 form. 20 BY MR. KENNEDY: 21 Q. Are you even suggesting to 22 me that they cut anybody off? 23 MS. HENN: Objection to 24 form.</p>

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<p>1 THE WITNESS: This was in 2 2012. I know that in 2013 myself 3 and my counterparts turned off 4 several customers that had a high 5 percentage of oxycodone. 6 BY MR. KENNEDY: 7 Q. So yeah, let's go back, now 8 that you bring up this 2013. 9 2008, McKesson gets fined 10 \$13 million for not reporting suspicious 11 orders, correct? 12 A. Yes. 13 Q. Now, they say we're going to 14 change things around here. We're 15 changing it, we're putting in a new 16 program. 17 And five years later, in 18 2013, now you're shutting programs down, 19 correct, now you're shutting folks down 20 and you're getting shut down in 2013. 21 MS. HENN: Objection to 22 form. 23 THE WITNESS: I'm not aware 24 where we were shut down as far --</p>	<p>1 doing it right. And then in 2017, 2 \$150 million fine because you're still 3 not doing it right. And now we are in 4 2018. Is that the sequence of your 5 interactions with the DEA with respect to 6 their actions and their sanctions and 7 your fines, sir? 8 MS. HENN: Objection to 9 form. 10 THE WITNESS: I believe 11 there were two fines paid by 12 McKesson. So what you're 13 referring to I believe was in '08, 14 and then the second one was paid 15 in 2017 that -- that I'm 16 referencing. I don't know of 17 three. You mentioned '8, '13 and 18 '17. 19 BY MR. KENNEDY: 20 Q. I want to talk a little bit 21 about these regional national accounts. 22 Those are the big customers, right? 23 A. Yes. Yes. 24 Q. Those are the ones where</p>
Page 539	Page 541
<p>1 I mean in my distribution centers 2 in the Northeast I believe we had 3 certain DCs that could not ship 4 controls, yes. 5 BY MR. KENNEDY: 6 Q. And were you sanctioned 7 again in 2013? 8 A. Yes. 9 Q. So 2008, we're going to turn 10 over a new leaf and put in a new program. 11 And so you were sanctioned, you got a 12 problem again in 2013. And then in 2017, 13 sir, you pay a \$150 million fine for once 14 again not reporting suspicious orders. 15 Is that true? 16 MS. HENN: Objection to 17 form. 18 THE WITNESS: I don't know 19 the exact year that it was paid. 20 But yes, I know we paid a fine of 21 about \$150 million. 22 BY MR. KENNEDY: 23 Q. So '08 we're going to do it 24 right. Then in 2013 you are still not</p>	<p>1 McKesson makes its most money? 2 A. Again, sir, I'm not in sales 3 so I don't know where we're making more 4 profit, whether it's an independent or 5 retail national accounts. I don't look 6 at the dollars and cents. 7 Q. The majority of your 8 customers, if we look at individual 9 pharmacies, are the majority of them part 10 and parcel of regional national accounts, 11 the big chains? 12 MS. HENN: Objection to 13 form. 14 BY MR. KENNEDY: 15 Q. Would that -- would that be 16 true? 17 A. Could you repeat the 18 question? 19 Q. Are the majority of your 20 pharmacies part of regional national 21 accounts, the big chain pharmacies? 22 MS. HENN: Objection to 23 form. 24 THE WITNESS: I don't know</p>

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<p>1 the amount of the small 2 independent customers. I know in 3 the retail national accounts we 4 have close to 20,000 registrants. 5 BY MR. KENNEDY: 6 Q. 20,000. When you entered 7 into this settlement in 2008 with the DEA 8 and the Department of Justice, and you 9 instituted this new program, in addition 10 to identifying suspicious orders, you 11 told the DEA that you would institute a 12 program of knowing your customer. True? 13 A. Yes. 14 Q. In fact, if we look at the 15 program that was put together, you 16 emphasize, we're going to -- we're 17 looking at suspicious orders with 18 thresholds. But in order to prevent 19 diversion, to control the flow of opioids 20 into the country, we're going to know our 21 customer, right? 22 A. That was part of it, yes, 23 sir. 24 MR. KENNEDY: We want to</p>	<p>1 we'll get it. 2 THE WITNESS: Yeah, 62. 3 BY MR. KENNEDY: 4 Q. Okay. This is your 5 monitoring the manual in 2008, correct? 6 A. Yes. This is our operating 7 manual. 8 Q. This is what you put in 9 place with respect to your agreement with 10 the DEA after paying 13 million, correct? 11 A. Yes. 12 Q. I want to go to page -- 13 MR. KENNEDY: Do you want to 14 give me a little bit more of that 15 page, please. 16 BY MR. KENNEDY: 17 Q. Do you see where it states 18 "DEA expects," the third highlight down, 19 "DEA expects McKesson to know their 20 customer"? 21 A. Yes. 22 Q. "This means understanding 23 the customer's business, why they 24 purchase, as well as how much they</p>
Page 543	Page 545
<p>1 look at 512. Is that one of -- 2 MS. ROZMAN: Well, it's 3 Exhibit 62 now. 4 MR. KENNEDY: 62. Look at 5 62, and it's 345. 6 MS. HENN: I'm sorry, which? 7 THE WITNESS: 62, this one. 8 MS. ROZMAN: It's 9 Exhibit 62. 10 MS. HENN: 562? 11 MR. KENNEDY: Yeah, and it's 12 our P-345. This is the first -- 13 THE WITNESS: Is this the 14 one? 15 MS. ROZMAN: No, no. It's 16 Exhibit 62. 17 MR. KENNEDY: You can just 18 look up if you want. 19 THE WITNESS: Oh, oh. It's 20 that one. 21 BY MR. KENNEDY: 22 Q. We're just going to read the 23 first page. It's up on the screen. 24 MS. HENN: Just a second,</p>	<p>1 purchase." Do you see that? 2 A. Yes, sir. 3 Q. If you go to Page 22 of 4 this, of this document. 5 THE VIDEOGRAPHER: Watch 6 your microphone. 7 BY MR. KENNEDY: 8 Q. Do you see under due 9 diligence there on 22, if you look at the 10 screen it might be easier. 11 A. I got it. 12 Q. Does it state, 22, due 13 diligence. So this is the investigations 14 y'all have to do. "McKesson's 15 responsibility is to know its customer." 16 Do you see that? 17 A. Yes. 18 Q. And when it said that, when 19 you made that agreement, it didn't mean 20 some of your customers, did it? 21 MS. HENN: Objection to 22 form. 23 THE WITNESS: No. It said 24 know our customer.</p>

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1 BY MR. KENNEDY:
2 Q. That means all your
3 customers?
4 A. I would say that's what it
5 meant.
6 Q. And you folks would divide
7 your customers into two groups, the big
8 chains are one group, and then the
9 independent/small/medium size, that was a
10 different group, correct?
11 A. We divided them into two
12 segments because their businesses are
13 different, sir.
14 Q. All right. But you've got
15 to know all your customers.
16 A. Yes.
17 Q. The big chains and the
18 independents and the small ones, right?
19 A. Yes.
20 Q. When somebody that's an
21 independent or a small/medium, when they
22 would breach your threshold, that Level 1
23 investigation would involve placing a
24 call to the particular pharmacy that

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1 placed the order above their threshold,
2 true?
3 A. Yes.
4 Q. And so if pharmacy X,
5 Miller's Pharmacy on Main Street in
6 Cleveland, Ohio, breached their
7 threshold, you're getting ahold of
8 Miller's Pharmacy on Main Street in
9 Cleveland, Ohio, that ordered over their
10 threshold. Right?
11 A. Yes.
12 Q. But if a big chain like CVS
13 breaches their threshold, the call went
14 to their corporate headquarters, their
15 regulatory department, their oversight
16 department. Correct?
17 A. Yes, I believe that's how it
18 worked.
19 Q. So if a CVS store in Idaho
20 places an order above their threshold,
21 you are calling Providence, Rhode Island.
22 You are calling the corporate office with
23 respect to that Level 1 --
24 MS. HENN: Objection to

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1 form.
2 BY MR. KENNEDY:
3 Q. -- to find out what's going
4 on in Idaho, correct?
5 MS. HENN: Objection to
6 form.
7 THE WITNESS: Right.
8 Because they had -- they perform
9 their own due diligence internal
10 regulatory review.
11 BY MR. KENNEDY:
12 Q. Okay. I'm going to write
13 that down. I got a paper.
14 MS. ROZMAN: We're going to
15 mark as MCK Oriente 574.
16 MR. KENNEDY: I'm going to
17 put that up please.
18 (Document marked for
19 identification as Exhibit
20 MCK-Oriente-574.)
21 BY MR. KENNEDY:
22 Q. So these national chains,
23 the big customers, the CVS, they do their
24 own due diligence, they've got their own

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1 regulatory department, correct?
2 A. Yes.
3 Q. And CVS, now that's a
4 customer that you're doing over
5 \$10 billion worth of business with,
6 right?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: Again, sir, I
10 don't know the exact dollar amount
11 that McKesson does with each
12 chain.
13 BY MR. KENNEDY:
14 Q. Let me ask you, sir, real
15 simple question.
16 If you're going to rely upon
17 somebody like CVS to do the due
18 diligence, you want to make sure they are
19 doing a good job, don't you?
20 A. We want to make sure they
21 are following the requirements
22 established for them, yes.
23 Q. I mean that's -- you've got
24 to make sure.

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1 A. Yeah, we -- yes.
2 Q. Sir, in 2010, do you
3 understand CVS paid a \$77 million penalty
4 in California, do you know that?
5 A. In California, I was not
6 aware. I knew they did in Florida have
7 some stores. But I wasn't aware of
8 California.
9 MR. KENNEDY: 505, please.
10 5005.
11 MS. ROZMAN: Identified as
12 MCK --
13 MR. KENNEDY: 5 -- yeah,
14 5005.
15 MS. ROZMAN: MCK Oriente
16 535.
17 (Document marked for
18 identification as Exhibit
19 MCK-Oriente-535.)
20 BY MR. KENNEDY:
21 Q. Here's -- this is from the
22 New York Times. "CVS to pay penalty in
23 methamphetamine case," 2010, New York
24 Times.

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1 Folks at McKesson get the
2 New York Times, right?
3 A. Sir, I don't know what
4 newspapers they do get. I know I have
5 not seen this before.
6 Q. Well, "CVS Caremark has
7 agreed to pay \$77.6 million to settle an
8 investigation that its drug stores
9 allowed widespread sales of cough
10 medicines used to manufacture the
11 stimulant methamphetamine." That's a
12 street drug, right, highly addictive,
13 kills people. Is that right? You know
14 what methamphetamine is.
15 A. Yes.
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: Yes, it's made
19 from cough medicines.
20 BY MR. KENNEDY:
21 Q. So CVS Pharmacy, a
22 subsidiary, acknowledged that it had sold
23 pseudoephedrine to criminals who used it
24 to make meth. Do you see that?

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1 A. Yeah, that's highlighted
2 here in Paragraph 2.
3 Q. Let me ask you this. In
4 2010, in 2010, you're saying, you know,
5 if a CVS pharmacy goes above their
6 threshold, we're going to call corporate
7 and let them do the due diligence at CVS.
8 Did you ever sit down and
9 say, you know what, maybe they are not
10 doing such a good job with their due
11 diligence. Maybe we ought to do it
12 ourselves. Did you say that in 2010 when
13 you saw this?
14 MS. HENN: Objection to
15 form.
16 THE WITNESS: Sir, I did not
17 see this in 2010. And when I
18 would call or have contact with a
19 chain corporate office, we did not
20 rely solely on their information
21 to make the determination. We
22 gathered the information from
23 them. We did not call the
24 individual store.

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1 BY MR. KENNEDY:
2 Q. Exactly. You didn't call
3 the individual store. You told us
4 before, they do their due diligence
5 and --
6 A. We gather the information
7 from their corporate office.
8 Q. Exactly.
9 A. And then we do our review.
10 Q. The same people that were
11 overseeing CVS for the conduct that cost
12 them 77.6 million bucks, that's who you
13 are relying on, right?
14 MS. HENN: Objection to
15 form.
16 BY MR. KENNEDY:
17 Q. Correct, sir?
18 MS. HENN: Objection to
19 form.
20 THE WITNESS: I'm not sure
21 who would have overseen this for
22 them. Again, I was not aware, as
23 I stated, that in California they
24 paid this fine. I knew of the two

<p style="text-align: right;">Page 554</p> <p>1 instances in Florida.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. But look at -- you have the</p> <p>4 duty to know your customer. And if your</p> <p>5 customer pays a \$77.6 million fine,</p> <p>6 McKesson ought to know about that, they</p> <p>7 have the duty to know their customer.</p> <p>8 And this is their biggest customer,</p> <p>9 right?</p> <p>10 MS. HENN: Objection to</p> <p>11 form.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Yes?</p> <p>14 A. This may -- this may have</p> <p>15 been known by McKesson, sir. It was not</p> <p>16 known by me, being responsible for the</p> <p>17 Northeast region that in California they</p> <p>18 paid this fine.</p> <p>19 MR. KENNEDY: Give me 5004,</p> <p>20 please.</p> <p>21 MS. ROZMAN: Identified as</p> <p>22 MCK Oriente 534.</p> <p>23 (Document marked for</p> <p>24 identification as Exhibit</p>	<p style="text-align: right;">Page 556</p> <p>1 A. Yes, they are.</p> <p>2 Q. Thank you. Now, does it</p> <p>3 state here, "Story highlights. The DEA</p> <p>4 says two pharmacies ordered more than</p> <p>5 3 million oxycodone units in a year. A</p> <p>6 typical pharmacy orders 69,000 units a</p> <p>7 year." And they ordered 3 million. Do</p> <p>8 you see that? Did I read that right?</p> <p>9 A. Yes.</p> <p>10 Q. And then it states, "Agents</p> <p>11 from the Drug Enforcement Administration</p> <p>12 raided two CVS pharmacies in Central</p> <p>13 Florida over the weekend, removing</p> <p>14 controlled substances and suspending the</p> <p>15 stores' ability to handle or distribute</p> <p>16 drugs such as painkillers, oxycodone and</p> <p>17 hydrocodone."</p> <p>18 Did I read that right?</p> <p>19 A. Yes.</p> <p>20 Q. And sir, can we agree that</p> <p>21 if McKesson has the duty to know its</p> <p>22 customers, they certainly should have</p> <p>23 known about this, right?</p> <p>24 A. We did know about -- we</p>
<p style="text-align: right;">Page 555</p> <p>1 MCK-Oriente-534.)</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. All right. Sir, now it's</p> <p>4 2012. It's 2012. If somebody goes over</p> <p>5 their threshold in a CVS store in Idaho,</p> <p>6 you are calling their regulatory</p> <p>7 oversight department in Rhode Island.</p> <p>8 But at the same time you're following</p> <p>9 that kind of procedure, now in 2012, the</p> <p>10 DEA makes a move on two Florida</p> <p>11 pharmacies, distributor, over pill sales.</p> <p>12 And those two pharmacies are CVS stores.</p> <p>13 Is that right?</p> <p>14 A. They are CVS stores. I</p> <p>15 believe --</p> <p>16 Q. Sir, are they CVS stores?</p> <p>17 A. Excuse me?</p> <p>18 Q. Are they CVS stores?</p> <p>19 MS. HENN: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: The -- the two</p> <p>22 stores in this article?</p> <p>23 BY MR. KENNEDY:</p> <p>24 Q. Yes.</p>	<p style="text-align: right;">Page 557</p> <p>1 heard about this. Are these two</p> <p>2 customers with McKesson in Florida?</p> <p>3 Q. Did you know about this with</p> <p>4 respect to McKesson, sir? Did you know</p> <p>5 about this --</p> <p>6 A. I heard --</p> <p>7 Q. Did you hear about this?</p> <p>8 A. I heard about this, yes.</p> <p>9 Q. All right. And let me ask</p> <p>10 you this, sir.</p> <p>11 A. And again --</p> <p>12 MS. HENN: Counsel.</p> <p>13 Counsel --</p> <p>14 THE WITNESS: Can I finish,</p> <p>15 please?</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. I just asked you if you</p> <p>18 heard about it and the answer was yes.</p> <p>19 MS. HENN: Counsel, he had</p> <p>20 something else to say.</p> <p>21 MR. KENNEDY: But he can't</p> <p>22 give speeches. You have to answer</p> <p>23 my questions.</p> <p>24 MS. HENN: He's not giving</p>

<p style="text-align: right;">Page 558</p> <p>1 speeches. He's trying to answer. 2 BY MR. KENNEDY: 3 Q. My -- my question is very 4 simple. Did you hear about this? 5 MS. HENN: Asked and 6 answered. 7 THE WITNESS: I heard about 8 the two stores in Florida, yes. 9 BY MR. KENNEDY: 10 Q. And my question to you now 11 is, at this point in time, in 2012, after 12 finding out this, did you folks sit down 13 and say maybe we shouldn't be letting CVS 14 monitor themselves out of their corporate 15 headquarters in Rhode Island, maybe we 16 should monitor them when they exceed 17 their threshold? 18 MS. HENN: Objection. 19 BY MR. KENNEDY: 20 Q. Did anybody sit down and 21 have that kind of meeting in 2012? 22 MS. HENN: Objection to 23 form. 24 BY MR. KENNEDY:</p>	<p style="text-align: right;">Page 560</p> <p>1 THE WITNESS: I do not know 2 who our largest customer is, sir. 3 BY MR. KENNEDY: 4 Q. By 2012, you're doing 5 \$19 billion worth of business with CVS. 6 You didn't know that? 7 MS. HENN: Objection to 8 form. 9 THE WITNESS: No, sir. I 10 don't look at dollars with 11 customers. I am not in sales. 12 BY MR. KENNEDY: 13 Q. Let's go to -- let's go to 14 2013. 15 MR. KENNEDY: If you can 16 give me 305, please. 17 MS. ROZMAN: Identified MCK 18 Oriente 511. 19 (Document marked for 20 identification as Exhibit 21 MCK-Oriente-511.) 22 BY MR. KENNEDY: 23 Q. Now, this is -- this is a 24 publication by the United States</p>
<p style="text-align: right;">Page 559</p> <p>1 Q. Did you go to such a 2 meeting? 3 A. That -- I did not go to such 4 a meeting. That type of meeting would 5 have been handled by our senior vice 6 president Don Walker. 7 Q. Did anybody come to you and 8 say this meeting occurred, even if you 9 didn't go to it? 10 A. I don't recall if one did 11 occur. 12 Q. And if you can give me -- 13 this resulted in a \$22 million fine. Do 14 you understand that, to CVS, a 15 \$22 million fine? 16 A. Yes, I am aware. 17 Q. So at this point CVS has 18 paid \$150 million in 2010, and now 19 another \$22 million in 2012. Right? And 20 they are your biggest customer, they are 21 the biggest customer of McKesson, are 22 they not? 23 MS. HENN: Objection to 24 form.</p>	<p style="text-align: right;">Page 561</p> <p>1 Attorney's Office. Do you see that? 2 A. Yes. 3 Q. And the date is April 3, 4 2013. Correct? 5 A. Yes. 6 Q. You see -- the headline is 7 "CVS to pay 11 million to settle civil 8 penalty claims involving violations of 9 the Controlled Substances Act." 10 And then it states, "The 11 United States has alleged that from 12 October 6, 2005, to October 5th of 2011, 13 CVS pharmacy stores in Oklahoma and 14 elsewhere violated the Controlled 15 Substances Act and the recordkeeping 16 regulations by creating, entering, and 17 maintaining invalid dummy DEA 18 registration numbers or numbers other 19 than the valid DEA registration number of 20 the prescribing practitioner on 21 dispensing records, which were at times 22 provided to state prescription drug 23 monitoring programs." 24 Did I read that right?</p>

<p style="text-align: right;">Page 562</p> <p>1 A. That is what is written 2 here. 3 Q. And these CVS stores in 4 several states, Oklahoma and elsewhere 5 were filling prescriptions for certain 6 prescribers whose DEA registration 7 numbers were not current or valid. Did 8 you see that? 9 A. Yes. 10 Q. And in knowing your customer 11 as was your obligation, McKesson should 12 have known about this \$11 million fine, 13 right? 14 MS. HENN: Objection to 15 form. 16 BY MR. KENNEDY: 17 Q. Is that right? They should 18 have known about it. They had the duty 19 to know their customers. And this is an 20 \$11 million fine. They should have known 21 about this. True? 22 MS. HENN: Objection to 23 form. 24 THE WITNESS: They --</p>	<p style="text-align: right;">Page 564</p> <p>1 MS. HENN: Objection to 2 form. 3 THE WITNESS: I -- I can't 4 say that McKesson didn't know 5 about this. At a -- at a higher 6 level than me they may have been 7 aware of this. 8 BY MR. KENNEDY: 9 Q. And they should have been, 10 correct? 11 MS. HENN: Objection to 12 form. 13 THE WITNESS: They -- 14 BY MR. KENNEDY: 15 Q. They should have been. 16 A. They should have and could 17 have. I do not know if, you know, the -- 18 the vice president that I reported into 19 knew about this. I'm sure that he may 20 have. But for me to be in the Northeast 21 region and to know about Oklahoma, I'm 22 not -- I'm not going to be aware of that. 23 Q. I'm going to ask you. It's 24 2013. Now, did -- did anybody above you</p>
<p style="text-align: right;">Page 563</p> <p>1 McKesson may have known about 2 this. I can't say. 3 BY MR. KENNEDY: 4 Q. Well, I'm not talking about 5 whether they did or they didn't. 6 MS. HENN: Counsel, please. 7 BY MR. KENNEDY: 8 Q. My question is real simple: 9 Should they? 10 MS. HENN: Let him finish 11 his sentences. 12 MR. KENNEDY: But I want him 13 to answer my question. 14 BY MR. KENNEDY: 15 Q. Go ahead. 16 MS. HENN: I know it's late 17 in the day, but it's basic -- 18 BY MR. KENNEDY: 19 Q. Here's my question. I'm -- 20 we'll start all over. 21 Would you agree that 22 pursuant to McKesson's obligation to know 23 their customer, they should have known 24 about this \$11 million fine in Oklahoma?</p>	<p style="text-align: right;">Page 565</p> <p>1 say look it, you are a director of 2 regulatory affairs for one of our 3 regions. How many folks had your job, 4 your similar job in the country? 5 A. Four. 6 Q. Did the folks above you call 7 you four in and say you know what, 8 they've been find 150 million, then 77, 9 and now another 11. Maybe we shouldn't 10 let these folks monitor themselves. 11 Maybe we should monitor them instead of 12 calling corporate headquarters. Because 13 corporate headquarters was the one 14 monitoring them when they got fined all 15 these monies. 16 A. We don't let them monitor 17 themselves. We do monitor them. We go 18 to corporate headquarters for information 19 on the pharmacy. 20 Q. And the same folks you're 21 getting information from were the same 22 people watching these stores when they 23 got all these fines, right? Right? Same 24 folks?</p>

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1 A. Yes.
2 MR. KENNEDY: Give me 301,
3 please. Now it's 2015.
4 MS. ROZMAN: MCK Oriente
5 507.
6 (Document marked for
7 identification as Exhibit
8 MCK-Oriente-507.)
9 BY MR. KENNEDY:
10 Q. Now, it's 2015, sir. 2015.
11 Now we've got a -- we've got a
12 publication here again by the United
13 States Attorney's Office, do we not?
14 A. Yes.
15 Q. And this, this headline, and
16 this is from August 10, 2015, correct?
17 A. Yes.
18 Q. And the quote is, or excuse
19 me, the headline is "Drug diversion
20 claims against CVS Health Corp. resolved
21 with \$450,000 civil settlement." Do you
22 see that?
23 A. Yes.
24 Q. And then it says, the first

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1 paragraph, "Pharmacy chain CVS Health
2 Corp. has agreed to pay \$450,000 to
3 resolve the United States' allegations
4 that several of its Rhode Island stores
5 violated the federal Controlled
6 Substances Act by filling invalid
7 prescriptions and maintaining deficient
8 records." Do you see that?
9 A. Yes.
10 Q. Let me ask you, who in the
11 regulatory department was in charge of
12 CVS?
13 A. In August of 2015 I believe
14 it may have been Tom McDonald.
15 Q. And who was in charge in
16 2012?
17 A. I'm not certain if it was me
18 or Tom.
19 Q. And who was in charge in
20 2010?
21 A. I'm not certain if it was me
22 or Tom. We switched accounts sometime
23 during that time frame.
24 MR. KENNEDY: Give me 297

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1 please.
2 MS. ROZMAN: Identified as
3 MCK Oriente 504.
4 (Document marked for
5 identification as Exhibit
6 MCK-Oriente-504.)
7 BY MR. KENNEDY:
8 Q. Another publication by the
9 United States Attorney's Office. Do you
10 see here McKesson, excuse me, CVS is
11 paying an \$8 million fine to settle
12 allegations for unlawful distribution of
13 controlled substances. Do you see that?
14 A. Yes.
15 MR. KENNEDY: Give me 300,
16 please.
17 MS. ROZMAN: MCK Oriente
18 506.
19 (Document marked for
20 identification as Exhibit
21 MCK-Oriente-506.)
22 BY MR. KENNEDY:
23 Q. Now, it's 2016. Publication
24 by the United States Attorney's Office,

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1 District of Massachusetts. Headline,
2 "CVS to pay \$3.5 million to resolve
3 allegations that pharmacists filled fake
4 prescriptions." Do you see that, sir?
5 A. Yes.
6 Q. And you're in charge of CVS
7 by this time, aren't you?
8 A. 2016, yes.
9 Q. So you knew about this,
10 right, because you've got a duty to know
11 your customer. You knew about this,
12 right?
13 A. I don't recall if I saw this
14 precise document.
15 MR. KENNEDY: Give me 296,
16 please.
17 MS. ROZMAN: McKesson -- MCK
18 Oriente 503.
19 (Document marked for
20 identification as Exhibit
21 MCK-Oriente-503.)
22 BY MR. KENNEDY:
23 Q. Now, it's 2017. We have
24 another publication by the United States

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1 Attorney's Office, Eastern District of
2 California. Correct? Do you see that?
3 A. Yes.
4 Q. And the headline reads, "CVS
5 Pharmacy pays \$5 million to settle
6 alleged allegations of the Controlled
7 Substances Act." Do you see that, sir?
8 A. Yes.
9 MR. KENNEDY: Give me 5007
10 please.
11 MS. ROZMAN: MCK Oriente
12 537.
13 (Document marked for
14 identification as Exhibit
15 MCK-Oriente-537.)
16 MS. HENN: And Counsel, just
17 to note, I believe we have about
18 five minutes left.
19 BY MR. KENNEDY:
20 Q. Mr. Oriente, this is a chart
21 that we created of CVS, DEA, Department
22 of Justice settlements between 2010 and
23 2016 that we've been talking about.
24 In a six-year period, CVS

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1 paid \$130.6 million worth of fines for
2 violating the Controlled Substances Act
3 at the pharmacy level. Do you see this,
4 sir?
5 A. Yes, I see that.
6 Q. And let me ask you, at any
7 single point in time, did anybody, did
8 anybody above you, around you, say we
9 need to have a meeting because maybe,
10 maybe we shouldn't be letting CVS
11 corporate monitor themselves?
12 MS. HENN: Objection to
13 form.
14 BY MR. KENNEDY:
15 Q. Did anybody ever hold that
16 meeting, sir?
17 MS. HENN: Objection to
18 form.
19 THE WITNESS: We -- we don't
20 allow CVS corporate to monitor
21 themselves, we monitor them. We
22 use their corporate as a
23 communication line to get
24 information on the individual

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1 pharmacy.
2 BY MR. KENNEDY:
3 Q. Exactly, sir. So you've got
4 a CVS pharmacy in Idaho, or Cleveland, or
5 Alabama or Colorado, and if they exceed
6 the threshold, you don't call the
7 pharmacy, you call CVS corporate, the
8 same folks that are monitoring CVS to the
9 tune of \$130 million worth of fine. That
10 was your program, sir, right?
11 MS. HENN: Objection to
12 form.
13 BY MR. KENNEDY:
14 Q. That was the program. Call
15 corporate. Correct?
16 MS. HENN: Objection to
17 form.
18 THE WITNESS: We --
19 BY MR. KENNEDY:
20 Q. Is that correct, sir?
21 MS. HENN: Objection to
22 form.
23 BY MR. KENNEDY:
24 Q. That's who you called?

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1 A. We would call corporate to
2 get information on their stores.
3 Q. Exactly.
4 A. As opposed to dealing with
5 the individual pharmacies.
6 Q. You called corporate because
7 you don't want to make CVS corporate mad
8 because you were doing, by this point,
9 \$16 billion worth of business every year,
10 your biggest customer?
11 MS. HENN: Objection.
12 BY MR. KENNEDY:
13 Q. That's why you called
14 corporate and you didn't investigate a
15 single one of their pharmacies.
16 MS. HENN: Objection to
17 form.
18 BY MR. KENNEDY:
19 Q. Correct, sir?
20 MS. HENN: Objection to
21 form.
22 THE WITNESS: No, that's not
23 correct, because we didn't -- it
24 wasn't to get them mad. We called

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1 them because they would have the
2 most information on that
3 particular pharmacy.
4 BY MR. KENNEDY:
5 Q. But everybody else, you
6 called the pharmacy, is that right?
7 MS. HENN: Objection to
8 form.
9 THE WITNESS: No, that is
10 not right. On chains we called
11 the corporate office.
12 BY MR. KENNEDY:
13 Q. Exactly.
14 A. On chains we called the
15 corporate office.
16 Q. But on everybody but --
17 A. On the individual stores,
18 which is an individual pharmacy, there is
19 no corporate office to call so you call
20 that individual pharmacy.
21 Q. For the independents you
22 investigated, but for the big customers
23 you called corporate?
24 A. We investigated also, in a

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1 different route.
2 MR. KENNEDY: Thank you. I
3 got nothing further.
4 MS. HENN: I'm going to have
5 some questions so I suggest we go
6 off the record.
7 THE VIDEOGRAPHER: Stand by
8 please. The time is 5:42 p.m.
9 Going off the record.
10 (Short break.)
11 THE VIDEOGRAPHER: We are
12 back on the record. The time is
13 5:54 p.m.
14 - - -
15 EXAMINATION
16 - - -
17 BY MS. HENN:
18 Q. Mr. Oriente, you testified
19 earlier today that you joined McKesson in
20 2004, is that correct?
21 A. Yes. 2004.
22 Q. And before joining McKesson
23 you worked as the director of operations
24 and distribution at Eckerd?

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1 A. Yes.
2 Q. When you joined McKesson you
3 were the director of operations for the
4 Delran, New Jersey, distribution center,
5 is that correct?
6 A. That is correct.
7 Q. And in 2007 you became
8 director of regulatory affairs overseeing
9 a number of distribution centers?
10 A. Yes. The Northeast region.
11 Q. Why did you move into
12 regulatory affairs?
13 A. Part of the responsibility
14 of the director of operations is to be
15 required to monitor and oversee the
16 maintaining of records in the controlled
17 substance. So besides having total
18 responsibility for the distribution
19 center, the DEA requirements are also
20 part of that.
21 We were given the lifestyle
22 drug monitoring program to oversee as
23 part of our overall responsibilities.
24 And I found it very interesting to

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1 monitor and look at what customers were
2 purchasing and the analytics that went
3 into it.
4 So when the newly created
5 positions were rolled out, I was
6 interested in moving into the regulatory
7 department. It was a little more
8 analytical than -- than running the
9 distribution center.
10 Q. And you said you found it
11 interesting to see how pharmacies were
12 purchasing. Why did you find that
13 interesting?
14 A. I found that interesting to
15 do the research and to look at how they
16 were ordering controls versus
17 non-controls, the type of business that
18 they had. More interactions with
19 customers. And also just -- it was such
20 an important topic at that time, I felt
21 it was definitely something I wanted to
22 get involved with.
23 Q. You testified earlier about
24 the evolution of McKesson's controlled

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1 substances monitoring program. How would
2 you describe that evolution?
3 A. The program today is much
4 more system generated. It would be like
5 comparing a -- when we first started it
6 was a manual process. We always had
7 controlled -- we always looked at
8 controlled sales. It was a manual
9 process. There were paper reports.
10 People would sit there, look at the
11 report, look at the type of pattern that
12 the customer was ordering. It was very
13 manual, kind of like an old biplane.
14 Today we have a streamlined jet.
15 Reports are generated for
16 us. A lot of the analytics are generated
17 by our system. We're able to look at
18 customer purchases at a much higher rate
19 of speed to make determinations. We have
20 a lot more warning reports. And it's
21 been evolving continuously.
22 And so what we have today is
23 much more robust than what we were doing.
24 We were still doing it. So it was

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1 still -- met the requirement, but it took
2 a lot more manual process to get to the
3 same determination.
4 Q. Could you describe the
5 relationship you've had with the DEA over
6 the course of your career in McKesson
7 regulatory affairs?
8 A. Yes. I felt that my
9 relationship with DEA was very good.
10 When I started in '07 in regulatory, our
11 Delran distribution center was always one
12 where the DEA paid compliments to when
13 they came in to do their cyclical audits.
14 Our recordkeeping was always good. Our
15 inventory was good. So the local DEA
16 office over my distribution center was
17 always satisfied with what we were doing.
18 When I went into regulatory
19 I dealt with the Washington D.C. office
20 that oversaw Landover. I dealt with the
21 New York office, as well as the New
22 Jersey office and the Pittsburgh office
23 of DEA, and the Rocky Hill office. And
24 would have conversations with different

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1 DEA agents when we were either calling to
2 report a customer or sending them a
3 letter notifying them that we cut
4 customers off.
5 Q. And what happened when you
6 communicated to DEA in those instances
7 about a pharmacy?
8 A. DEA would basically say
9 thank you for the information. And then
10 that was really the end of it. It was
11 not a two-way communication. We would
12 give them the information of a
13 particular -- either a pharmacy or maybe
14 a doctor that we saw a lot of activity
15 on.
16 They would again thank us
17 for the information. That was pretty
18 much the end of what we heard unless we
19 heard about it in the news later on if
20 there was additional action taken. But
21 we were never, you know, communicated
22 back on, on anything that we submitted.
23 Q. Tell me your mission and
24 responsibilities in McKesson's regulatory

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1 affairs group. How do they compare with
2 the mission and responsibilities of
3 McKesson's sales group?
4 A. My responsibilities are to
5 monitor what a customer is purchasing and
6 to look at their percentage of controls,
7 their total controls that they are
8 buying, making sure that the mix of
9 products is typical of what a pharmacy
10 would be purchasing.
11 I don't look at dollars of a
12 customer. It's just either going to be
13 independent or retail national account.
14 And even with a retail national account
15 I'll look at volume, total doses, but I
16 don't look at dollars. So I'm never
17 making a determination based off of a
18 dollar value.
19 Sales, of course, would
20 be -- I can just surmise they are looking
21 to increase sales for their customer.
22 But what I liked is that we had final
23 say. So if I didn't feel that a customer
24 warranted an increase, I would not make

<p style="text-align: right;">Page 582</p> <p>1 that increase.</p> <p>2 Q. How would you describe</p> <p>3 McKesson's culture in the area of</p> <p>4 compliance and regulatory affairs?</p> <p>5 A. I would say that McKesson</p> <p>6 has a corporate culture, they call it</p> <p>7 ICARE, I-C-A-R-E. It's integrity,</p> <p>8 customer focused, and then</p> <p>9 accountability, respect and excellence.</p> <p>10 I find that McKesson is a very -- they</p> <p>11 look at accountability and respect and</p> <p>12 excellence of the job that we do.</p> <p>13 As I mentioned earlier, I</p> <p>14 take -- took my job, take my job very</p> <p>15 seriously. I know that I play an</p> <p>16 important role in the monitoring of sales</p> <p>17 of controlled substances. I take that</p> <p>18 responsibility very personally.</p> <p>19 I think that McKesson has a</p> <p>20 very high ethics group when it comes to</p> <p>21 integrity in what we do.</p> <p>22 MS. HENN: I have no further</p> <p>23 questions.</p> <p>24 MR. PAPANTONIO: Sir, I've</p>	<p style="text-align: right;">Page 584</p> <p>1 identification as Exhibit</p> <p>2 MCK-Oriente-060.)</p> <p>3 BY MR. PAPANTONIO:</p> <p>4 Q. Now, sir, I'm wondering, you</p> <p>5 have surely seen the -- what I call the</p> <p>6 death map. Have you seen the death map?</p> <p>7 A. Not that exact document, no.</p> <p>8 Q. You've not seen -- you've</p> <p>9 not seen this?</p> <p>10 A. Not the death map, no.</p> <p>11 Q. Is that right? Why don't</p> <p>12 you take a look at what I call the death</p> <p>13 map. Okay.</p> <p>14 MS. HENN: Counsel, do you</p> <p>15 have copies?</p> <p>16 MR. PAPANTONIO: Give --</p> <p>17 give a copy to the lawyers,</p> <p>18 please.</p> <p>19 BY MR. PAPANTONIO:</p> <p>20 Q. Now, let's look at this</p> <p>21 death map. Take a look at it. And tell</p> <p>22 me, is this the first time you've seen</p> <p>23 this.</p> <p>24 MS. MOORE: That's McKesson</p>
<p style="text-align: right;">Page 583</p> <p>1 got a few questions.</p> <p>2 Would you please put up</p> <p>3 Document Number 324.</p> <p>4 - - -</p> <p>5 EXAMINATION</p> <p>6 - - -</p> <p>7 BY MR. PAPANTONIO:</p> <p>8 Q. I want to ask you about,</p> <p>9 sir, while you were evolving to where you</p> <p>10 say you've been evolving. Is that what</p> <p>11 you said?</p> <p>12 MS. HENN: Objection to</p> <p>13 form.</p> <p>14 THE WITNESS: I -- I believe</p> <p>15 I said that our program is</p> <p>16 continuously improving.</p> <p>17 BY MR. PAPANTONIO:</p> <p>18 Q. Okay. Let's look at --</p> <p>19 let's look at how many people have been</p> <p>20 dying across the United States while</p> <p>21 you've been evolving. Let's take a look</p> <p>22 at that.</p> <p>23 MR. PAPANTONIO: 324 please.</p> <p>24 (Document marked for</p>	<p style="text-align: right;">Page 585</p> <p>1 Oriente 60.</p> <p>2 THE WITNESS: No, I have</p> <p>3 not --</p> <p>4 BY MR. PAPANTONIO:</p> <p>5 Q. Have you ever seen the death</p> <p>6 map?</p> <p>7 A. No, I've not seen the death</p> <p>8 map.</p> <p>9 Q. Before you came in here to</p> <p>10 testify, nobody showed you the death map,</p> <p>11 did they?</p> <p>12 A. No.</p> <p>13 Q. Well, let's do this realtime</p> <p>14 on the death map. Do you see, do you see</p> <p>15 down on the death map, if you'll take a</p> <p>16 look at the first -- the first very part</p> <p>17 of the death map, do you see where it</p> <p>18 has, do you see this area, this grey all</p> <p>19 the way to, it looks like a light brown.</p> <p>20 Do you see that right there?</p> <p>21 A. What -- what number are you</p> <p>22 referring to, 10?</p> <p>23 Q. I'm referring to 1999. Do</p> <p>24 you see up in the corner, sir? You may</p>

<p style="text-align: right;">Page 586</p> <p>1 want to look up here --</p> <p>2 A. You said grey, but I --</p> <p>3 there's a couple of shades here and I</p> <p>4 want to make sure I'm looking at the same</p> <p>5 one you are.</p> <p>6 Q. Okay.</p> <p>7 A. So there's a number to the</p> <p>8 right of it. Is that the 10?</p> <p>9 Q. Yeah.</p> <p>10 A. Okay.</p> <p>11 Q. Yeah, that's it.</p> <p>12 A. Thank you.</p> <p>13 Q. So, so this is the number of</p> <p>14 deaths that started as you were evolving</p> <p>15 as a company and trying to figure out how</p> <p>16 to evolve. Let's talk about the</p> <p>17 evolution of death.</p> <p>18 1999. Turn to the next</p> <p>19 page. Do you see that area around West</p> <p>20 Virginia? Can -- do you know where West</p> <p>21 Virginia is on a map?</p> <p>22 A. Yes, sir, right in this</p> <p>23 area.</p> <p>24 Q. Do you know where Ohio is on</p>	<p style="text-align: right;">Page 588</p> <p>1 form.</p> <p>2 BY MR. PAPANTONIO:</p> <p>3 Q. Take a look at it. If it</p> <p>4 doesn't, tell me it doesn't. We'll let</p> <p>5 the jury decide.</p> <p>6 Does it get bigger in 2000,</p> <p>7 the death map?</p> <p>8 MS. HENN: Objection to</p> <p>9 form.</p> <p>10 BY MR. PAPANTONIO:</p> <p>11 Q. Does it get bigger, sir?</p> <p>12 A. It looks to stay almost the</p> <p>13 same.</p> <p>14 Q. Okay. Well, let's move on.</p> <p>15 Let's look at -- okay. Let's focus just</p> <p>16 on tan. How about we do that.</p> <p>17 Now, how about let's go to</p> <p>18 2001. Does 2001 on the death map, is</p> <p>19 that area bigger or smaller than 19 --</p> <p>20 the 1999, on the death map?</p> <p>21 A. It's increased somewhat.</p> <p>22 Q. Increased. Okay. Let's</p> <p>23 look at 2002. This is the area that you</p> <p>24 were in charge of, correct?</p>
<p style="text-align: right;">Page 587</p> <p>1 a map?</p> <p>2 A. Up here.</p> <p>3 Q. And what -- tell me what</p> <p>4 color that is.</p> <p>5 A. Color for which state?</p> <p>6 Q. Either one. West Virginia</p> <p>7 or --</p> <p>8 A. Ohio is in the blue shades.</p> <p>9 West Virginia is in the tan shades.</p> <p>10 Q. Okay. Let's talk about the</p> <p>11 tan shades then, since we've got a lot to</p> <p>12 talk about on the evolution of the death</p> <p>13 map.</p> <p>14 This is 1999 is where the</p> <p>15 death map starts, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And then the death map goes</p> <p>18 to 20, goes to 2000, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Does that -- does that tan</p> <p>21 shade get better, that area you're</p> <p>22 supposed to be in charge of, does that</p> <p>23 get bigger?</p> <p>24 MS. HENN: Objection to</p>	<p style="text-align: right;">Page 589</p> <p>1 MS. HENN: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: Not the full</p> <p>4 area of West Virginia, no.</p> <p>5 BY MR. PAPANTONIO:</p> <p>6 Q. Well, do you see the West</p> <p>7 Virginia area, 2002, take a look at it.</p> <p>8 A. I see the West Virginia area</p> <p>9 in 2002. I did not have the entire state</p> <p>10 of West Virginia.</p> <p>11 Q. Well, we can look at that</p> <p>12 and tell West Virginia has now moved from</p> <p>13 just tan, they've gone all the way down</p> <p>14 to, they've got all the way to brown.</p> <p>15 Tell me what the deaths are for brown,</p> <p>16 what does that represent, 30 deaths?</p> <p>17 MS. HENN: Objection to</p> <p>18 form.</p> <p>19 BY MR. PAPANTONIO:</p> <p>20 Q. 30 deaths per 100,000</p> <p>21 people?</p> <p>22 A. To this rig chart. 30 plus.</p> <p>23 Q. Yeah, so 30 plus people in</p> <p>24 2001 in that, in West Virginia. Correct?</p>

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1 Let's go to 2002 --
2 A. Per 100, per 100,000.
3 Q. Per 100,000 people.
4 Now let's go to 2003 on the
5 death map. Do you see that big brown
6 spot, that big blotch there? That's West
7 Virginia, isn't it?
8 Can you see it better now if
9 you look up on the screen?
10 A. No, I can see it from here.
11 Q. All right. Now, what do we
12 see there, we see brown, we see red, we
13 see orange?
14 A. Mm-hmm.
15 Q. So colors are changing as
16 you're trying to evolve and try to figure
17 out how to do better after being fined
18 \$13 million. How to do better after
19 you've been fined \$150 million. How to
20 do better after you have been -- after
21 the DOJ and the DEA has investigated you.
22 Right? As you are evolving, that's part
23 of the evolution, correct?
24 MS. HENN: Objection to

Page 591

1 form.
2 THE WITNESS: Part of our
3 evolution was to have enhanced
4 reports that are system generated
5 and have systems assist us in the
6 reviews instead of a manual
7 process. That's part of the
8 evolution.
9 BY MR. PAPANTONIO:
10 Q. Let's see how that works.
11 MS. HENN: And, Counsel,
12 just -- just to let you know, you
13 have two more minutes.
14 BY MR. PAPANTONIO:
15 Q. Okay. Then let's do this.
16 Let's go -- since I've been told I have
17 two minutes, let's go to Number 18. Just
18 pull over to Page 18. We'll just
19 compare.
20 MR. PAPANTONIO: Would you
21 please put up -- would you put up
22 1999 compared to 2013 since I've
23 been told I only have how many
24 more minutes? Two minutes. How

Page 592

1 about putting them side by side.
2 BY MR. PAPANTONIO:
3 Q. Look up here on the screen,
4 sir.
5 A. I am.
6 MR. PAPANTONIO: Would you
7 put the next one up on the screen
8 for me, please.
9 BY MR. PAPANTONIO:
10 Q. Wow. A lot of brown there,
11 huh? What does the -- what does the dark
12 brown mean? It means more than 30 deaths
13 per 100,000, correct?
14 A. Yes.
15 Q. And the tan, what does that
16 mean?
17 A. 16 to 17. Or 14 or 15.
18 Q. So do you realize what we're
19 doing here, we're comparing what started
20 in 1999 when you were selling pills to
21 pharmacies, when McKesson was selling
22 narcotics to pharmacies, the first map we
23 see as far as people dying is the one on
24 the left. Do you understand that?

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1 A. Yes.
2 Q. And the one on the right is
3 what happened as late as, what's the year
4 on that, 2013?
5 MS. MOORE: 2016.
6 BY MR. PAPANTONIO:
7 Q. 2016.
8 That map is bright red with
9 dead people, isn't it, sir?
10 MS. HENN: Objection to
11 form.
12 BY MR. PAPANTONIO:
13 Q. It is bright red with dead
14 people?
15 MS. HENN: Objection to
16 form.
17 BY MR. PAPANTONIO:
18 Q. Wouldn't you agree with
19 that?
20 Sir, do you understand that
21 is children, mothers, fathers, uncles,
22 sisters and brothers. That's a
23 statistic. But what that statistic
24 means, and those are family members dying

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1 because your company participated with
2 CVS and Purdue and Teva and all these --
3 Cardinal, and participated in expanding
4 the death map from what we see on the
5 left to what we see on the right. Are
6 you proud of that, sir?
7 MS. HENN: Objection to
8 form.
9 BY MR. PAPANTONIO:
10 Q. Are you proud of that?
11 MS. HENN: Objection to
12 form.
13 THE WITNESS: The epidemic
14 is not something that I am proud
15 occurred. I do my job to try to
16 limit that.
17 BY MR. PAPANTONIO:
18 Q. Yeah. Well, didn't you tell
19 me McKesson has an ICARE culture. Isn't
20 that what you said? It's ICARE culture.
21 And I think you said it's integrity,
22 accountability, excellence --
23 MS. HENN: Counsel, we've
24 reached the end so I'd just ask

Page 595

1 you to ask your last question.
2 MR. PAPANTONIO: I'm going
3 to ask the last question.
4 BY MR. PAPANTONIO:
5 Q. Isn't that what you told me,
6 on direct, isn't that what you said, the
7 ICARE program?
8 A. That is what I said.
9 Q. If we make a -- if we
10 look at --
11 MS. HENN: All right.
12 Counsel, we're done.
13 BY MR. PAPANTONIO:
14 Q. -- if you look at that map,
15 the ICARE policy is a disaster, isn't it?
16 MS. HENN: I'd like to go
17 off the record now, sir.
18 BY MR. PAPANTONIO:
19 Q. If we look at that map, the
20 ICARE policy is a disaster. Yes or no?
21 MS. HENN: Counsel, before
22 we went on the record again, you
23 agreed as the court ordered that
24 we would abide by the protocol --

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1 MR. PAPANTONIO: I'm going
2 to ask this question. You can
3 bring it up to the judge. I want
4 to ask this question since you
5 have this man here.
6 MS. HENN: Counsel.
7 BY MR. PAPANTONIO:
8 Q. You said you had an ICARE
9 program. Yes or no?
10 MS. HENN: And I'm going to
11 tell you that this needs to be the
12 last question.
13 MR. PAPANTONIO: Do you want
14 to instruct him -- okay --
15 MS. HENN: I'm not
16 instructing him not to answer.
17 MR. PAPANTONIO: Okay. This
18 is my last question.
19 MS. HENN: Thank you, sir.
20 BY MR. PAPANTONIO:
21 Q. You said you had an ICARE
22 program, right, that involved integrity,
23 it involved accountability, it involved
24 high ethics, it involved excellence.

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1 Look at these two maps and
2 you tell me whether all that ICARE
3 program was working between 1999 and
4 2016?
5 A. The ICARE principle that we
6 follow at McKesson, it covers all of
7 McKesson. The fact that West Virginia
8 deaths increased over these years, we did
9 our monitoring, and it isn't just in West
10 Virginia, the epidemic was widespread.
11 Q. Okay.
12 A. And we did what we could to
13 monitor and deter that from occurring.
14 Q. Because like your --
15 MS. HENN: Counsel.
16 BY MR. PAPANTONIO:
17 Q. Because like your CEO said,
18 you took it seriously.
19 MS. HENN: Counsel.
20 MR. PAPANTONIO: I don't
21 have any further questions.
22 MS. HENN: Thank you, sir.
23 THE VIDEOGRAPHER: Stand by
24 please. The time is 6:10 p.m.

<p style="text-align: right;">Page 598</p> <p>1 This marks the end of today's 2 deposition. Off the record. 3 MR. O'CROININ: I do 4 actually have a couple questions 5 though. 6 (Brief pause.) 7 THE VIDEOGRAPHER: It's not 8 the end of today's deposition, but 9 we are going off the record. The 10 time is 6:10 p.m. 11 (Brief pause.) 12 THE VIDEOGRAPHER: The time 13 is 6:11 p.m. Back on the record. 14 - - - 15 EXAMINATION 16 - - - 17 BY MR. O'CROININ: 18 Q. I'm Conor O'Croinin, I 19 represent the CVS entities in this case. 20 A. Okay. 21 Q. And we have never met, have 22 we? 23 A. No, we have not. 24 Q. I know it's been a long day.</p>	<p style="text-align: right;">Page 600</p> <p>1 why they were increasing. Why they 2 needed an increase. 3 I don't know, you know, the 4 specific examples of specific reasons 5 that they submitted. 6 Q. So if you don't know the 7 specific reasons why they were submitted 8 or why they were approved, you couldn't 9 say one way or the other whether they 10 should have been approved? 11 MR. PAPANTONIO: Objection, 12 leading the witness. Ask a 13 question that's not leading. 14 Counsel, you have him on direct 15 right now. 16 MS. HENN: Counsel, there 17 are no speaking objections. 18 MR. PAPANTONIO: Objection 19 to form. Okay. We'll do it -- 20 we'll -- your question needs 21 improving. 22 BY MR. O'CROININ: 23 Q. What is that -- can you say 24 one way or the other whether they --</p>
<p style="text-align: right;">Page 599</p> <p>1 I'll try to be very quick. Mr. Kennedy 2 asked you some questions, if you recall, 3 about what you referred to as an 4 agreement between CVS and McKesson? 5 A. Yes, sir. 6 Q. Concerning threshold 7 increase requests? 8 A. Yes, sir. 9 Q. Just to be clear, do you 10 have any firsthand knowledge of such an 11 agreement? 12 A. I do not. 13 Q. Mr. Kennedy also asked you 14 some questions about the approval of 15 certain threshold increase requests made 16 by CVS. Do you recall that line of 17 questioning? 18 A. I do. 19 Q. All right. And do you know 20 the reasons for those approvals of those 21 requests? 22 A. They would vary. I mean 23 each threshold change request typically 24 would, you know, vary by the stores to</p>	<p style="text-align: right;">Page 601</p> <p>1 those requests ought to have been 2 approved? 3 A. Not seeing the reasons 4 listed for them, no. 5 Q. You were also asked 6 questions about McKesson's policy of 7 reaching out to CVS's corporate offices 8 as opposed to going to an individual 9 pharmacy. Do you remember those 10 questions? 11 A. Yes. 12 Q. Is that -- is that a policy 13 that McKesson has that is specific to 14 CVS, is it a special CVS policy? 15 A. No, it is not a CVS policy. 16 All the retail national accounts are 17 handled on a corporate level. 18 Q. Are you aware of how many 19 stores CVS has in the U.S.? 20 A. I would be guessing. I know 21 it's in the thousands. I'm also not sure 22 exactly how many McKesson has versus some 23 of the other wholesalers. 24 Q. Does 10,000 sound right to</p>

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1 you?

2 A. I'm not -- not sure if it's

3 that many. Yeah.

4 Q. But you think it's in the

5 thousands?

6 A. Oh yes.

7 Q. And Mr. Kennedy went through

8 a number of press releases and articles

9 concerning fines that CVS paid in

10 connection with specific CVS stores. Do

11 you remember that line of questioning?

12 A. Yes.

13 Q. Do you know whether the vast

14 majority of CVS's stores have never been

15 implicated in any kind of investigation

16 or paid a fine?

17 MR. PAPANTONIO: Objection.

18 Form.

19 THE WITNESS: I would say

20 that with the number of total

21 stores that CVS has, the number

22 that was listed is a very small

23 percentage.

24 MR. O'CROININ: All right.

Page 603

1 That's all I have.

2 MR. KENNEDY: Yeah, let

3 me -- I'm going to ask you -- let

4 me ask you a few questions in

5 follow-up to the CVS questioning.

6 If you can pull up 5007

7 please.

8 MS. HENN: Do you by chance

9 have a copy for me?

10 MR. KENNEDY: Of?

11 MS. HENN: The exhibit.

12 I'll just look here.

13 - - -

14 EXAMINATION

15 - - -

16 BY MR. KENNEDY:

17 Q. Mr. Oriente, did you just

18 tell us that you thought CVS was doing a

19 very good job?

20 A. No, I did not say that,

21 that -- that I recollect.

22 I said that the amount of

23 stores that were fined here in comparison

24 to the total number of stores would be a

Page 604

1 small amount, small percentage.

2 Q. Okay. So you didn't mean to

3 say that getting fined \$77 million in

4 2010, and then 11 in '13, another

5 \$350,000 in '13, and a \$1.9 million fine

6 in '14, and \$22 million in '15, and

7 \$450,000 in '15, and 8 million and 3.5

8 million, another 5.

9 You're not saying a total of

10 \$130.6 million worth of fines over six

11 years is a good job, are you?

12 MS. HENN: Objection to

13 form.

14 BY MR. KENNEDY:

15 Q. You don't mean to tell us

16 that, do you?

17 MS. HENN: Objection to

18 form.

19 THE WITNESS: I don't

20 believe that's what I said. I

21 said the number of stores --

22 BY MR. KENNEDY:

23 Q. My question is simple.

24 MS. HENN: Counsel, please

Page 605

1 let him finish his answer.

2 BY MR. KENNEDY:

3 Q. You don't mean to say that,

4 do you? That they're doing a good job

5 here with \$130 million worth of fines?

6 MS. HENN: Objection to

7 form.

8 THE WITNESS: I don't

9 believe I commented on whether

10 they were doing a good job. I

11 believe my comment was a small

12 percentage of the stores had

13 problems.

14 BY MR. KENNEDY:

15 Q. Let me ask you right now.

16 Do you think CVS was doing a good job

17 with \$130 million worth of fines over six

18 years? Do you think that's a good job in

19 monitoring the flow of narcotics into our

20 communities. Do you think that is a good

21 job?

22 MS. HENN: Objection to

23 form.

24 THE WITNESS: I think based

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1 off of the fines they could have
2 done a better job, yes.
3 MR. KENNEDY: I've got
4 nothing further.
5 MS. HENN: Thank you. But I
6 want to reserve signature. I
7 think I mentioned earlier the
8 whole transcript should be marked
9 highly confidential pending
10 review.
11 THE VIDEOGRAPHER: This
12 marks the end of today's
13 deposition. The time is 6:18 p.m.
14 (Excused.)
15 (Deposition concluded at
16 approximately 6:18 p.m.)
17
18
19
20
21
22
23
24

Page 607

1
2 CERTIFICATE
3
4
5 I HEREBY CERTIFY that the
6 witness was duly sworn by me and that the
7 deposition is a true record of the
8 testimony given by the witness.
9
10 It was requested before
11 completion of the deposition that the
12 witness, MICHAEL ORIENTE, have the
13 opportunity to read and sign the
14 deposition transcript.
15
16 MICHELLE L. GRAY,
17 A Registered Professional
18 Reporter, Certified Shorthand
19 Reporter, Certified Realtime
20 Reporter and Notary Public
21 Dated: July 24, 2018
22
23 (The foregoing certification
24 of this transcript does not apply to any
reproduction of the same by any means,
unless under the direct control and/or
supervision of the certifying reporter.)

Page 608

1 INSTRUCTIONS TO WITNESS
2
3 Please read your deposition
4 over carefully and make any necessary
5 corrections. You should state the reason
6 in the appropriate space on the errata
7 sheet for any corrections that are made.
8 After doing so, please sign
9 the errata sheet and date it.
10 You are signing same subject
11 to the changes you have noted on the
12 errata sheet, which will be attached to
13 your deposition.
14 It is imperative that you
15 return the original errata sheet to the
16 deposing attorney within thirty (30) days
17 of receipt of the deposition transcript
18 by you. If you fail to do so, the
19 deposition transcript may be deemed to be
20 accurate and may be used in court.
21
22
23
24

Page 609

1 - - - - -
2 E R R A T A
3 - - - - -
4 PAGE LINE CHANGE
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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
hereby certify that I have read the
foregoing pages, 1 - 611, and that the
same is a correct transcription of the
answers given by me to the questions
therein propounded, except for the
corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

MICHAEL ORIENTE DATE

Subscribed and sworn
to before me this
____ day of _____, 20____.
My commission expires: _____

Notary Public

Page 611

LAWYER'S NOTES

PAGE LINE

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